

REPORT ON THE WORKING OF THE LEGISLATIONS GOVERNING CONDITIONS OF EMPLOYMENT IN SHOPS, COMMERCIAL ESTABLISHMENTS, THEATRES, HOTELS AND RESTAURANTS DURING THE YEAR 2009

1. Introduction

The conditions of employment of the persons working in Shops and Commercial Establishments in the country are being largely governed by the Acts passed by the respective State Governments and the rules framed thereunder. In addition, there is also a Central Act, viz., the Weekly Holidays Act, 1942 which facilitates grant of weekly holidays for the employees covered under the respective State Acts. Labour Bureau brings out the report on the working of the Legislation Governing Conditions of Employment in Shops, Commercial Establishments, Theatres Hotels and Restaurants every year on the basis of the annual Returns and the reports submitted by the State Governments/Union Territory Administrations to it. The present report is for the year 2009.

2. Scope, Coverage and Main Provisions of the Acts

(a) State Acts

The Acts passed by various State Governments and Union Territory Administrations and Rules framed thereunder regulate, *inter-alia*, the daily and weekly hours of work of the establishments, payments of wages, overtime, holidays with pay, annual leave, etc. These Acts apply in the first instance to Shops and Commercial Establishments, Restaurants, Hotels and Places of Amusement in certain notified urban areas and prohibit the employment of children below 14 years of age and working of women at night. The State Governments are, however, empowered to extend the application of the Acts to such other areas or to such categories of undertakings, as they may consider necessary. However, certain type of employees, such as those employed in a confidential capacity or where the work is of intermittent nature, are excluded from the provisions of the Acts.

(b) Central Act

The Central Act known as the Weekly Holidays Act, 1942, provides for the grant of weekly holidays to persons employed in Shops and Commercial Establishments, etc.,

and is operative only in those States which notify its application to specified areas within their jurisdiction.

Table I shows the areas covered by the various State Acts as well as the Central Act in different States and Union Territories during the year 2009.

3. Administration

There is no uniform pattern of departments/organisations in different states in administering these Acts. In the States of Andhra Pradesh, Jammu and Kashmir, Orissa and Punjab, these Acts are administered by the Chief Inspectors of Shops and Commercial Establishments whereas in other States they are administered by the Labour Commissioners or Factory Inspectors or by the officials of the Health or Revenue Department.

4. Number of Establishments Covered and Persons Employed therein:

The total number of establishments covered under the Act and persons employed therein during 2009 were 28,86,096 and 40,60,793 respectively. Out of these 24,52,516 (84.98 per cent) were shops, 2,94,441 (10.20 per cent) were commercial establishments, and 1,39,139 (4.82 per cent) were Cinemas. Theaters, Hotels and restaurants employed 18,63,652 (45.90 per cent), 16,80,875 (41.39 per cent) and 5,16,266 (12.71 per cent) persons respectively.

The number of Shops and Commercial Establishments, etc. covered under the Acts and the number of persons employed therein during 2009 are presented in Table-II. It is observed from this Table that the total number of establishments covered under the Act was highest in Rajasthan (5,74,877 i.e 19.92 per cent) followed by Andhra Pradesh (3,60,245 i.e.12.48 per cent) and Tamil Nadu(3,19,599 i.e. 11.07 per cent). The number of persons employed in the establishments was highest in Bihar (9,37,872 i.e. 23.10 per cent) followed by Andhra Pradesh (7,09,955 i.e.17.48 per cent) and Kerala (4,49,889 i.e.11.08 per cent). **In some States, the number of establishments was on the higher side as compared to the number of persons employed as some establishments, especially Shops, were run exclusively by the proprietors themselves without engaging any employee.**

The number of Shops being run independently by the owners and those being run with the help of employees are presented in Table-III. The Table shows that out of 24,52,816 Shops, as many as 17,94,465 i.e. 73.17 per cent shops were run independently by the owners while the rest were being run with the help of employees with or without family members. The average number of persons employed per shop for all the reporting States / Union Territories works out to 3.7 persons approximately.

5. Enforcement

Normally, Administrative authorities follow the policy of persuasion for ensuring compliance with the provisions of the Acts and institute prosecutions only as a last resort in extreme cases of continuing defaults.

The data on inspections made, prosecutions launched, cases disposed of by Courts and the amount of fines realised during 2009 are presented in Table-IV. In all the States and Union Territories which have submitted returns during the year, the Agencies Administering the Act conducted 7,16,610 inspections, launched 57,855 prosecutions and the courts disposed off 39,117 cases and realised an amount of Rs.1,18,87,532 as fine from the defending establishments. During the year, Tamil Nadu has the highest number of inspections reported; i.e. 2,71,930 (37.95 per cent); and the Union Territory of Chandigarh has the highest number of prosecutions launched (24,831 i.e. 42.92 per cent) and number of cases disposed off (25,292 i.e. 64.66 per cent). On the other hand Haryana was on the top with Rs.42,34,166 when it comes to the amount of fine realised.

The irregularities detected during the period under report were attributed to non-payment of wages, arrears, bonus, overtime, leave with wages, non-maintenance of prescribed records and registers, non-display of notices and non-observance of working hours, weekly holidays, etc.

Limitations of the Statistics:

Furnishing of data is a statutory obligation under the Act. The agencies responsible for administering the Act are under obligation to submit the returns by 31st March of the following year. However, there are large number of States and Union Territories which do not submit the returns by the prescribed dates despite repeated

reminders resulting in delay in bringing out the review. Annexure-I depicts delay in receipt of returns in Labour Bureau from the respective States/Union Territories.

The present review is based on the data supplied by 16 States and 2 Union Territories. Other States/Union Territories have either not submitted the returns or the data submitted by them were inadequate and inconsistent to include in the report. Similarly, the review does not include information pertaining to the States/Union Territories of Arunachal Pradesh, Mizoram, Nagaland, Sikkim, Dadra & Nagar Haveli, Daman & Diu and Lakshadweep as these Acts are not in vogue in these States/Union Territories.

Table-I**State-wise Coverage of Shops and Commercial Establishments Under the State Acts
During the year 2009**

Sl. No.	State / Union Territory	Name of the Act	Areas Covered
1	2	3	4
1.	Andhra Pradesh	The Andhra Pradesh Shops and Establishments Act, 1988	All the areas of the State
2.	Assam	The Assam Shops and Establishments Act, 1971	Guwahati Muncipal Corporation, 127 Urban, Semi-urban and Rural Areas
3.	Bihar	The Bihar Shops and Establishments Act, 1953	182 Areas.
4.	Chhatisgarh	Coverage of Shops & Commercial Establishments Act, have not been reported.	Areas covered have not been reported.
5.	Goa	Goa Shops and Establishments (Amendment) Act, 2001	All Districts of Goa and Banks (Nationalised, Scheduled or Co-operative Banks)
6.	Haryana	The Punjab Shops and Establishments Act, 1958	91 Towns
7.	Himachal Pradesh	The Himachal Pradesh Shops & Commercial Establishments Act, 1969	58 Places
8.	Jammu & Kashmir	The J & K Shops and Commercial Establishments Act, 1966	55 Towns / Places
9.	Kerala	The Kerala Shops and Commercial Establishments Act, 1960	283 places (which include Corporations, Municipalities and Panchayats)
10.	Meghalaya	Shops and Commercial Establishments Act, 1948	The whole State of Meghalaya
11.	Orissa	The Orissa Shops and Commercial Establishments Act, 1956	95 Municipal and Notified Area Councils
12.	Punjab	The Punjab Shops and Commercial Establishments Act, 1958	130 Towns/Cities
13.	Rajasthan	The Rajasthan Shops and Commercial Establishments Act, 1958	35 Places
14.	Tamil Nadu	The Tamil Nadu Shops and Establishments Act, 1947	City of Chennai, in all Municipalities, Towns, Panchayats and in certain areas specially notified by the Government
15.	Tripura	The Tripura Shops and Establishments Act, 1970	Municipal areas of Agartala town & Sub-Divisional Towns of Dharamanagar, Kailashahar, Khowai, Radhakishorepur (Udaipur) & Belonia in Tripura
16.	Uttarakhand	The Utrrakhand Shops and Commercial Establishments Act, 1962	Areas covered have not been reported.
17.	Chandigarh	The Punjab Shops and Commercial Establishments Act, 1958	City of Chandigarh and Town of Manimajra

18. Puducherry	The Puducherry Shops and Commercial Establishments Act, 1964, the Puducherry Catering Establishments Act, 1964 and the Puducherry Industrial Establishments (National and Festival Holidays) Act, 1964	The whole Union Territory which comprises four regions viz., Puducherry, Karaikal, Mahe and Yanam
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Note: The remaining States / Union Territories did not furnish the Annual Returns for the year 2009.

Table-II
Number of Shops, Commercial Establishments, Cinemas, Theatres, Hotels, Restaurants, etc. and
Total Number of Persons Employed therein during the year 2009 (by States)

State / Union Territory	Number of							
	Shops	Persons employed	Commercial Establishments	Persons employed	Cinemas, Theatres, Hotels and Restaurants	Persons employed	Total Establishments	Persons Employed
1	2	3	4	5	6	7	8	9
1. Andhra Pradesh	312265	352337	30894	261634	17086	95984	360245	709955
2. Assam	57373	52815	9595	30245	3957	12534	70925	95594
3. Bihar	172952	195390	71956	647386	8060	95096	252968	937872
4. Chhatisgarh	86780	102669	9198	19096	3529	6356	99507	128121
5. Goa	810	1018	726	3875	250	1633	1786	6526
6. Haryana	202935	162044	11337	158466	5407	13828	219679	334338
7. Himachal Pradesh	47047	13819	6176	11823	7926	11979	61149	37621
8. Jammu & Kashmir	175876	24789	12182	31729	13206	15744	201264	72262
9. Kerala	235051	264909	36967	117589	20420	67391	292438	449889
10. Meghalaya	6525	24273	416	2038	538	4304	7479	30615
11. Orissa	14077	40787	12519	51379	4588	17678	31184	109844
12. Punjab	212875	98232	27350	80924	7915	15997	248140	195153
13. Rajasthan	515246	203676	39186	134690	20445	71022	574877	409388
14. Tamil Nadu	286755	241750	15385	83148	17459	49908	319599	374806
15. Tripura	41393	20977	1075	2844	864	3029	43332	26850
16. Uttrakhand	53747	11158	2757	9043	3715	19528	60219	39729
17. Chandigarh	14694	18268	5043	26459	2093	6878	21830	51605
18. Puducherry	16115	34741	1679	8507	1681	7377	19475	50625
Total	2452516	1863652	294441	1680875	139139	516266	2886096	4060793
	(84.98%)	(45.90%)	(10.20%)	(41.39%)	(4.82%)	(12.71%)		

Note: (i) The remaining States/Union Territories did not furnish the Annual Returns for the year, 2009.
(ii) Percentages may not add up to 100 due to rounding off.

Table-III
Ownership of Shops and Employment therein during the year 2009 (by States)

State/Union Territory	Number of Shops			Number of owners of shops shown in Col.4	Number of persons employed
	Independently run by owners	Run with the help of employees	Total		
1	2	3	4	5	6
Andhra Pradesh	171488 (54.92)	140777 (45.08)	312265	312265	352337
Assam	26475 (46.15)	30898 (53.85)	57373	30898	52815
Bihar	123364 (71.33)	49588 (28.67)	172952	172952	195390
Chhatisgarh	66603 (76.75)	20177 (23.25)	86780	75911	102669
Goa	351 (43.33)	459 (56.67)	810	810	1018
Haryana	157158 (77.44)	45777 (22.56)	202935	202935	162044
Himachal Pradesh	34536 (73.41)	12511 (26.59)	47047	47047	13819
Jammu & Kashmir	159119 (90.47)	16757 (9.53)	175876	175876	24789
Kerala	129622 (55.15)	105429 (44.85)	235051	236450	264909
Meghalaya	5534 (84.81)	991 (15.19)	6525	6525	24273
Orissa	-	14077 (100.00)	14077	14077	40787
Punjab	169732 (79.73)	43143 (20.27)	212875	212875	98232
Rajasthan	422623 (82.02)	92623 (17.98)	515246	534726	203676
Tamil Nadu	238269 (83.09)	48486 (16.91)	286755	286755	241750
Tripura	25014 (60.43)	16379 (39.57)	41393	41393	20977
Uttrakhand	50553 (94.06)	3194 (5.94)	53747	53747	11158
Chandigarh	8512 (57.93)	6182 (42.07)	14694	14694	18268
Puducherry	5512 (34.20)	10603 (65.80)	16115	16115	34741
Total	1794465 (73.17%)	658051 (26.83%)	2452516	2436051	1863652

The remaining States/Union Territories did not furnish the Annual Returns for the year, 2009. Figures in brackets indicate percentage to total.

Note: The Total of Col.4 may not tally with Col.2 of Table-II because of discrepancy of the data supplied by the States/Union Territories.

Table-IV

The Number of Inspections Made, Prosecutions Launched, Cases Disposed off by the Courts and Amount of Fine Realised Under the Shops and Commercial Establishments Acts during the Year 2009 (by States)

State/Union Territory	Inspections made	Prosecutions launched	Cases disposed off by the courts	Amount realised as fine (in Rs.)
1	2	3	4	5
Andhra Pradesh	121586 (16.97)	8283 (14.32)	3779 (9.66)	8,19,454
Assam	30075 (4.20)	738 (1.28)	175 (0.45)	40,950
Bihar	14014 (1.96)	222 (0.38)	45 (0.11)	1,27,585
Chhatisgarh	6001 (0.84)	764 (1.32)	931 (2.38)	2,08,025
Goa	4495 (0.63)	75 (0.13)	51 (0.13)	71,020
Haryana	34015 (4.75)	3038 (5.25)	2310 (5.90)	42,34,166
Himachal Pradesh	4905 (0.68)	1058 (1.83)	1036 (2.65)	6,16,350
Jammu & Kashmir	18534 (2.59)	12221 (21.12)	1428 (3.65)	4,36,100
Kerala	56424 (7.87)	1609 (2.78)	1364 (3.49)	8,55,834
Meghalaya	219 (0.03)	-	-	-
Orissa	3024 (0.42)	561 (0.97)	124 (0.32)	9,525
Punjab	43359 (6.05)	1341 (2.32)	725 (1.85)	1,59,240
Rajasthan	11772 (1.64)	340 (0.59)	292 (0.75)	66,250
Tamil Nadu	271930 (37.95)	819 (1.42)	344 (0.88)	26,465
Tripura	19444 (2.71)	88 (0.15)	34 (0.09)	2,29,600
Uttrakhand	8551 (1.19)	1867 (3.23)	1186 (3.03)	1,20,870
Chandigarh	53377 (7.45)	24831 (42.92)	25292@ (64.66)	38,65,598
Puducherry	14885 (2.08)	-	1 (0.00)	500
Total	7,16,610	57,855	39,117	1,18,87,532

@ = Included previous cases

The remaining States/Union Territories did not furnish the Annual Returns for the year, 2009.
Figures in brackets indicate percentage to total.

Annexure - I

State/Union Territory	Delay in submission of return (in months)
1	2
1. Andhra Pradesh	10
2. Assam	10
3. Bihar	3
4. Chhatisgarh	22
5. Goa	16½
6. Haryana	4½
7. Himachal Pradesh	1
8. Jammu & Kashmir	7
9. Kerala	8
10. Meghalaya	3
11. Orissa	6
12. Punjab	-
13. Rajasthan	3
14. Tamil Nadu	20½
15. Tripura	3
16. Uttarakhand	19
17. Chandigarh	-
18. Puducherry	13

- = No delay