

(i) Cement Matter.

Important - up date, cement - P.F. 28/5/12

The Hon. General Secretary informed members that, the final hearing on BAI's petition on the cement cartel issue have been completed at Competition Commission of India on 20th - 22nd March 2012. He also informed the house that, Shri D.L. Desai (Shankarbhaj), Trustee, have attended the final hearing, and requested Shri D.L. Desai (Shankarbhaj) to apprise members on the same.

Shri D.L. Desai (Shankarbhaj) apprised members on the matter by stating that, the foundation of BAI's petition was on the 'under utilisation of installed capacity by Cement Manufacturers'. He then informed that, from the proceedings, he could infer that, the Hon'ble Competition Commission have appeared to be convinced on the existence of pre-arranged informal agreement amongst Cement Manufacturers with a view to manipulate the sale price. He also stated that, Cement Manufacturers could not prove the increase in Cement price is due to the existence of mismatch between demand and supply. He also expressed hope that in all possibilities major Cement Manufacturers will be penalised heavily for their indulgence in cartelisation. He then observed that the legal fight on the matter will not be ending with the Competition Commission, if the Cement Manufacturers are found guilty as they certainly will approach Appellate Tribunal of the Competition Commission and could even go upto the Supreme Court. He also mentioned about the huge legal fees required to be collected for representing the matter at various legal forums.

Shri D.L. Desai (Shankarbhaj) then informed members about import of cement from Pakistan by M/s. Tata Housing Ltd., and requested Shri Neerav Parmar, General Manager (Accounts) of M/s. Tata Housing Ltd. and Vice Chairman, BAI, Mumbai Centre, to apprise members on the same.

Shri Neerav Parmar informed members that, M/s. Tata Housing has a long term import contract with M/s. Lucky Cement Co., Pakistan and the cost of such imported cement is approximately Rs.250/- per bag at site. He also stated that, the imported cement is of high quality with 'BIS' certification and supplied as per the requirement at the site itself.

Shri M. Karthikeyan, Past President; Shri Mahesh Mudda, Hon. Gen. Treasurer; Shri Alex P. Cyriac, State Chairman, Kerala; Shri S.I. Chunchare, Shri Ram Bhatia, Shri A. Puhazhendi and others have participated in the discussion.

Shri B. Seenaiah, President, sought clarification from Shri Neerav Parmar on the possibility of exclusive supply of cement from M/s. Lucky Cement to India, so that contractors who run the projects near port city could facilitate the availability of imported cement. He also directed the Executive Secretary to circulate a list of 'BIS' approved Cement companies to all Managing Committee / General Council Members.

The President while appreciating the efforts taken by BAI to take up the mighty Cement Manufacturers to the Competition Commission offered all legal assistance not only from his own sources but also from other Corporate companies. He felt Corporate companies will be the largest beneficiary, if BAI could stop cartelisation by Cement Manufacturers.

The President then informed members about the need of a cement plant exclusively catering to the requirement of BAI members. He reminded members on the promise of Hon'ble Chief Minister of Andhra Pradesh on the State Government's interest in partnering such an initiative of BAI. He requested members to come forth with their contribution, so that establishment of a new Cement factory will turn out to be a reality.

(ii) Provident Fund.

The Hon. General Secretary informed members that, on the presence BAI's Advocate Shri Somesh Arora in the meeting, who is appointed for taking up Writ Petition No.3588 of 2002 pending before the Hon'ble High Court at New Delhi, and requested him to apprise members on the present status of the Provident Fund Applicability in Construction Industry.

Shri Somesh Arora in his power point presentation gave the following facts:-

- > Construction Industry was brought within the purview of the Provident Fund Act, 1952 (the "Act") vide Notification dated 17.9.1964. Subsequent notifications dated 23.9.1980 and 1.11.1990 sought to broaden the boundaries of the said Act, wherein a requirement was placed for every employee employed in or in connection with the work to become a member of the scheme from such employee's date of joining. This amendment lead to an interesting tussle between the Central Provident Fund Commissioner and the Building and Construction Industry as to the applicability of paragraph 26(2) of the Provident Fund Scheme to daily rated casual, temporary, and peripatetic labours. The issue got further entwined when the said industry challenged the capability of the Provident Fund Department in distribution of the benefits of this social legislation to the actual beneficiary.
- > From the year 1991 to the year 2012, EPFO failed to formulate any constructive scheme on the said issue despite trying out various models.
- > Till date there is no approved and functional mechanism whereby the funds as are collected in the name of individual welfare of the construction workers despite there being a plethora of litigation as regards the said subject, and to further accentuate the fact there also appears to be several thousands of crores lying undistributed in the EPFO coffers with no identifiable beneficiary."

He then startled members with the following statement extracted from the Annual Report of Provident Fund Department:-

"There were 36.5 million inoperative accounts across 120 offices. In all, the agency had 47.1 million subscribers at the end of March 2009, which is estimated to have increased during the last financial year. However, latest data on the total number of subscribers was not available. This means a vast majority of the purported beneficiaries are not getting any benefits from the said Scheme, only due to lack of implementation. Therefore, in his context what is the validity of enforcement of Section 7A when in itself the Organisation is not able to deliver its primary function?"

Shri Somesh Arora also stated that about the details of inoperative accounts by giving the following points:-

Inoperative Accounts		
Balance Rs.	Accounts Million	Amount (Rs. Crore)
1-500	10.55	553.43
500-1,000	5.09	508.73
1,000-5,000	10.30	1657.70
5,000-10,000	2.25	1712.70
10,000-1 lakh	2.16	5542.02
1 lakh-10 lakh	0.13	3550.28
Over 10 lakh	0.02	891.03
Total	30.50	15415.89

Calculations based on EPFO estimates.

Before concluding his presentation, he requested the house to seriously consider approaching the Supreme Court with a very Senior Counsel as BAI has no so far taken the points presented by him to any Courts.

Shri P.R. Mundle (Past President); Shri D.L. Desai (Shankarbhaj) (Trustee); Shri Narendra Kumar (Trustee); Shri Mahesh Mudda (Hon. Gen. Treasurer); Shri Alex P. Cyriac (State Chairman, Kerala), Shri K.J. George, and others have participated in the discussion.

President appreciated Shri Somesh Arora for his exhaustive presentation. He then stated that, the Office Bearers will take a decision on approaching Supreme Court at an appropriate time.

(iii) Skill Development of Construction Workers

The President apprised members on his visit at Delhi on 12th April 2012 to participate in a meeting chaired by Shri Ramadorai, Advisor to PM on Skill Development. In this meeting, the President expressed the co-operation of BAI with Skill Development Corporation and also assured BAI's financial support when the Council ventures with equity offer. He also informed members that, participants of the meeting have pointed out about the huge unused / unclaimed funds available with various labour oriented social schemes like, Provident Fund, Construction Workers Labour Cess etc., and requested the officials of National Skill Development Council to approach the Government for availing these funds for the skill development purpose.