

REPORT ON THE WORKING OF THE LEGISLATION GOVERNING CONDITIONS OF EMPLOYMENT IN SHOPS, COMMERCIAL ESTABLISHMENTS, THEATRES, HOTELS AND RESTAURANTS DURING THE YEAR 2015*

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 there under. 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 2015.

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 there under regulate, inter-alia, the daily and weekly hours of work of the establishments, payment 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., is operative only in those States which notify its application to specified areas within their jurisdiction. Table I(A) and I(B) shows the areas covered by the various State Acts as well as the Central Act in different States and Union Territories during the year 2015.

* Report for the year 2014 may be seen on Labour Bureau website and published in February, 2017 issue of Indian Labour Journal (Page119-125).

3. Administration

There is no uniform pattern of departments/organizations in different States in administering these Acts. In the States of Andhra Pradesh and Chandigarh (UT) 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 number of Shops and Commercial Establishments, etc. covered under the Acts and the number of persons employed therein during 2015 are presented in Table-II. The total number of establishments covered under the Act and persons employed therein during 2015 were 80,54,121 and 2,19,85,708 respectively. Out of these 58,07,802 (72.11%) were Shops, 17,98,032 (22.32%) were Commercial Establishments and 4,48,287 (5.57%) were Cinemas, Theaters, Hotels and Restaurants. The above establishments employed 81,58,947 (37.11%), 1,19,73,412 (54.46%) and 18,53,349 (8.43%) persons respectively.

It is observed from this Table that the total number of establishments covered under the Act was highest in Maharashtra (28,28,082 i.e. 35.11%) followed by Rajasthan (8,42,421 i.e. 10.46%), Uttar Pradesh (7,40,013 i.e. 9.19%) and Gujarat (6,15,123 i.e. 7.64 %). The number of persons employed in the establishments was highest in Maharashtra (58,36,487 i.e. 26.55%) followed by Rajasthan (30,53,023 i.e. 13.89%), Uttar Pradesh (22,49,981 i.e. 10.23%) and Delhi(NCT) (22,12,279 i.e. 10.06%). 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 58,07,802 Shops, as many as 38,07,592 i.e. 65.56% shops were run independently by the owners while the rest were being run with the help of employees with or without family members.

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 inspection made, prosecution launched, cases disposed of by Courts and the amount of fines realised during 2015 are presented in Table-IV. In all the States and Union Territories which have submitted return during the year, the Agencies Administrating the Act conducted 11,42,929 inspections, 80,292 prosecutions were launched and the court disposed-off 61,279 cases and realised an amount of Rs. 7,01,57,345 as fine from the defending establishments. During the year, Maharashtra reported highest number of inspection i.e. 5,08,873(44.52%), Chandigarh the highest number of prosecutions launched (27,739 i.e. 34.55%), and also highest number of cases disposed off (26,927 i.e. 43.94%) and Maharashtra maximum amount of fine realised in i.e. Rs. 5,65,94,010.

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 administrating the Act under obligation to submit the returns by 31st March of the following year. However, the States of Chhattisgarh, West Bengal, Mizoram and Punjab did not submit the returns till December, 2017 despite repeated reminders resulting in delay in bringing out the review.

The present view is based on the data Supplied by 21 States and 3 Union Territories. Similarly, the review does not include information pertaining to the States/union Territories of Arunachal Pradesh, Nagaland, Sikkim, Dadra & Nagar Haveli, Daman & Diu and Lakshadweep as these Acts are not in vogue in these States/Union Territories.

Table-I (A) State-wise Coverage of Shops and Commercial Establishments under the State Acts During the year 2015

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 but reported for 13 districts only.
2.	Assam	The Assam Shops and Establishments Act, 1971	Guwahati Municipal Corporation, 127 Urban, Semi-urban, Rural areas and Karbi Anglong & Dima Hasao
3.	Bihar	The Bihar Shops and Establishments Act, 1953	182 Areas.
4.	Goa	Goa, Daman & Diu Shops and Establishments Act, 1973	All Districts of Goa and Banks (Nationalised, Scheduled, Co-operative Banks and Insurance Companies)
5.	Gujarat	The Shops and Establishments Act, 1948	134 Local Authorities
6.	Haryana	The Punjab Shops and Commercial Establishments Act, 1958	Throughout the State
7.	Himachal Pradesh	The Himachal Pradesh Shops & Commercial Establishments Act, 1969	58 Places
8.	Jammu and Kashmir	Jammu and Kashmir Shops and Establishment Act, 1996	Whole State
9.	Jharkhand	Jharkhand Shops and Commercial Establishment Act, 1953	Whole State
10.	Karnataka	The Karnataka Shops and Commercial Establishments Act, 1961	Whole State
11.	Kerala	The Kerala Shops and Commercial Establishments Act, 1960	Whole State
12.	Madhya Pradesh	Dookan Aur Vanijayik sansthapna Adhiniyam, 1958	Whole State
13.	Maharashtra	The Maharashtra Shops and Establishments Act, 1948	295 Local areas
14.	Meghalaya	Shops and Commercial Establishments Act, 2003	The whole State
15.	Odisha	The Odisha Shops and Commercial Establishments Act, 1956	106 Municipalities and N.A.Cs
16.	Rajasthan	The Rajasthan Shops and Commercial Establishments Act, 1958	35 Places
17.	Tamil Nadu	The Tamil Nadu Shops and Commercial Establishments Act, 1947 Tamil Nadu Industrial Establishments (National & Festival Holidays) Act, 1958	Whole State
18.	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
19.	Uttar Pradesh	The Uttar Pradesh Dookan Aur Vanijaya Adhishthan Adhiniyam, 1962	Whole State
20.	Uttarakhand	The Uttarakhand Dookan Aur Vanijaya	64 Urban Areas

		Adhishthan Adhiniyam, 1962	
21.	Andaman & Nicobar Islands	The Shops & Commercial Establishments Act and Weekly Holidays Act, 1942	Areas covered have not been reported in the annual return.
22.	Chandigarh	The Punjab Shops and Commercial Establishments Act, 1958	Union Territory of Chandigarh
23.	Delhi (NCT)	The Delhi Shops and Establishments Act, 1954	The whole national capital territory.
24.	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

Note: The remaining States/Union Territories did not furnish the Annual Returns for the year 2015

Table – I (B) Coverage under the Weekly Holidays Act, 1942 during 2015

Sl.No.	State/Union Territory	Area Covered
1.	Karnataka	Murnad, Bhagamandala, Napoklu, Ammathi, Ponnampet and Hudikeri in Kudagu District and Munirabad and Kinnal in Raichur District
2.	Andaman and Nicobar Islands	Port Blair Municipal Areas

Table-II

**Number of Shops, Commercial Establishments, Cinemas, Theatres, Hotels, Restaurants, etc. and Total
Number of Persons Employed therein during the year 2015 (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	152944	321068	18856	101589	9247	47991	181047	470648
2. Assam	54537	56804	13630	47311	4908	17445	73075	121560
3. Bihar	194426	203480	71986	645460	8808	95946	275220	944886
4. Goa	709	762	615	2766	264	1520	1588	5048
5. Gujarat	459042	311694	134763	361743	21318/	410637	615123	714474
6. Haryana	322488	566026	42750	848937	6554	46806	371792	1461769
7. Himachal Pradesh	62196	20210	8538	17891	10519	16595	81253	54696
8. Jammu and Kashmir	258789	73053	22984	54906	17800	29103	299573	157062
9. Jharkhand	95928	347483	19027	155167	13975	140426	128930	643076
10. Karnataka	239511	495594	157934	972582	17184	150961	414629	1619137
11. Kerala	287598	534917	57907	228330	19235	83680	364740	846927
12. Madhya Pradesh	126706	196472	63978	116956	14204	17862	204888	331290
13. Maharashtra	1991280	1351378	740435	4007280	96367	477829	2828082	5836487
14. Meghalaya	12355	34421	2191	10765	806	6303	15352	51489
15. Odisha	15513	44310	20204	87275	6322	26879	42039	158464
16. Rajasthan	675520	684581	147107	2281963	19794	86479	842421	3053023
17. Tamil Nadu	301391	597866	18447	145425	6013	54934	325851	798225
18. Tripura	47680	15522	748	2602	564	1928	48992	20052
19. Uttar Pradesh	353116	1119774	224179	679843	162718	450364	740013	2249981
20. Uttarakhand	75099	23790	4815	19520	5744	27265	85658	70575
21. A & N Islands	1248	2900	297	1666	75	608	1620	5174
22. Chandigarh	16173	26444	5996	36606	2217	9541	24386	72591
23. Delhi (NCT)	41546	1064264	17825	1135280	1246	12735	60617	2212279
24. Puducherry	22007	66134	2820	11549	2405	9112	27232	86795
Total	5807802 (72.11)	8158947 (37.11)	1798032 (22.32)	11973412 (54.56)	448287 (5.57)	1853349 (8.43)	8054121	21985708

Note: (i) The remaining States/Union Territories did not furnish the Annual Returns for the year, 2015.

(ii) Percentages may not add up to 100 due to rounding off.

Table-III**Ownership of Shops and Employment therein during the year 2015(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	Others	Total		
1	2	3	4*	5*	6
1. Andhra Pradesh	49210(32.18)	103734(67.82)	152944	152944	321068
2. Assam	23399(42.90)	31138(57.10)	54537	54349	56804
3. Bihar	138650(71.31)	55776(28.69)	194426	194426	203480
4. Goa	386(54.44)	323(45.56)	709	709	762
5. Gujarat	227239(49.50)	231803(50.50)	459042	459042	311694
6. Haryana	210788(65.36)	111700(34.64)	322488	322488	566026
7. Himachal Pradesh	45703(73.48)	16493(26.52)	62196	62196	20210
8. Jammu and Kashmir	227632(87.96)	31157(12.04)	258789	258789	73053
9. Jharkhand	55679(58.04)	40249(41.96)	95928	95928	347483
10. Karnataka	108059(45.12)	131452(54.88)	239511	239511	495594
11. Kerala	166869(58.02)	120729(41.98)	287598	287598	534917
12. Madhya Pradesh	96362(76.05)	30344(23.95)	126706	126706	196472
13. Maharashtra	1458106(73.22)	533174(26.78)	1991280	1991280	1351378
14. Meghalaya	8460(68.47)	3895(32.53)	12355	12355	34421
15. Odisha	- (0.00)	15513(100)	15513	15513	44310
16. Rajasthan	428116(63.38)	247404(36.62)	675520	675520	684581
17. Tamil Nadu	214965(71.32)	86426(28.68)	301391	366028	597866
18. Tripura	23400(49.08)	24280(50.92)	47680	47680	15522
19. Uttar Pradesh	236271(66.91)	116845(33.09)	353116	353116	1119774
20. Uttarakhand	61809(82.30)	13290(17.70)	75099	75099	23790
21. A & N Islands	406(32.53)	842(67.47)	1248	1248	2900
22. Chandigarh	9622(59.50)	6551(40.50)	16173	16173	26444
23. Delhi (NCT)	9215(22.18)	32331(77.82)	41546	24829	1064264
24. Puducherry	7246(32.93)	14761(67.07)	22007	22007	66134
Total	3807592(65.56)	2000210(34.44)	5807802	5855534	8158947

The remaining States/Union Territories did not furnish the Annual Returns for the year, 2015.

Figures in brackets indicate percentage to total.

* Figures in Col.5 may not strictly tally with Col.4 as for shops owned by partner each partner is counted as a separate owner. A Co-operative Store and the like are treated as a shop without owner.

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 Act during the Year 2015 (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
1. Andhra Pradesh	20315	3283	2947	251100
2. Assam	35268	472	325	147690
3. Bihar	7010	51	-	-
4. Goa	1330	4	1	2500
5. Gujarat	61606	4764	3502	1045068
6. Haryana	12097	775	497	666265
7. Himachal Pradesh	7640	1544	1507	1838450
8. Jammu and Kashmir	19887	2668	2594	637500
9. Jharkhand	467	-	-	-
10. Karnataka	40429	2808	31	48500
11. Kerala	53135	2963	1919	4215509
12. Madhya Pradesh	1180	897	457	173900
13. Maharashtra	508873	26022	14893	56594010
14. Meghalaya	3033	-	-	-
15. Odisha	3271	101	15	3980
16. Rajasthan	4394	27	47	5100
17. Tamil Nadu	254628	2783	2587	59825
18. Tripura	23337	140	60	93100
19. Uttar Pradesh	10988	2872	2691	172000
20. Uttarakhand	2914	379	279	32800
21. A & N Islands	101	-	-	-
22. Chandigarh	58613	27739	26927	4170048
23. Delhi (NCT)	-	-	-	-
24. Puducherry	12413	-	-	-
Total	1142929	80292	61279	70157345

The remaining States/Union Territories did not furnish the Annual Returns for the year, 2015.

Figures in brackets indicate percentage to total.

- = Not available