

REPORT ON THE WORKING OF THE LEGISLATION GOVERNING CONDITIONS OF EMPLOYMENT IN SHOPS, COMMERCIAL ESTABLISHMENTS, THEATRES, HOTELS AND RESTAURANTS DURING THE YEAR 2016*

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 2016.

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 2016.

* Report for the year 2015 may be seen on Labour Bureau website and published in November, 2017 issue of Indian Labour Journal (Page1147-1153).

3. Administration

There is no uniform pattern of departments/organizations in different States in administering these Acts. In the States of Bihar 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.

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 2016 are presented in Table-II. The total number of establishments covered under the Act and persons employed therein during 2016 were 78,53,065 and 1,90,13,435 respectively. Out of these 56,79,445 (72.32%) were Shops, 17,60,557 (22.42%) were Commercial Establishments and 4,13,063 (5.26%) were Cinemas, Theaters, Hotels and Restaurants. The above establishments employed 72,12,447 (37.93%), 99,57,044 (52.37%) and 18,43,944 (9.70%) persons respectively.

It is observed from this Table that the total number of establishments covered under the Act was highest in Maharashtra (29,25,608 i.e. 37.25%) followed by Rajasthan (7,73,794 i.e. 9.85%), Uttar Pradesh (7,41,865 i.e. 9.45%) and Karnataka (4,47,355 i.e. 5.70 %). The number of persons employed in the establishments was highest in Maharashtra (64,54,441 i.e. 33.95%) followed by Uttar Pradesh (22,55,518 i.e. 11.86%) and Karnataka (18,15,145 i.e. 9.55). 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 56,79,445 Shops, as many as 37,51,807 i.e. 66.06% shops were run independently by the owners while the rest were being run with the help of employees.

Enforcement

The data on inspection made, prosecution launched, cases disposed of by Courts and the amount of fines realised during 2016 are presented in Table-IV. In all the States and Union Territories which have submitted return during the year 2016, the agencies administering the Act conducted 8,30,450 inspections, 62,637 prosecutions were launched and the court disposed-off 47,757 cases and realised an amount of Rs. 5,16,17,944 as fine from the defending establishments. During the year, Maharashtra reported the highest number of inspections i.e. 3,37,118(40.59%) as well as maximum amount of fine realised i.e. Rs. 3,45,95,609. While, Chandigarh UT has the highest number of prosecutions launched i.e. 28,245 (45.09%) and also the highest number of cases disposed off i.e. 27,074 (56.69%) during the year.

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, the States of Arunachal Pradesh, Chhattisgarh, Jammu & Kashmir, Manipur, Telangana, Uttarakhand, West Bengal and Pudduchery did not submit the returns till April, 2019 despite repeated reminders resulting in delay in bringing out the review.

The present review is based on the data Supplied by 21 States and 4 Union Territories. Similarly, the review does not include information pertaining to the States/union Territories of Sikkim, Dadra & Nagar Haveli and Daman & Diu as the 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 2016

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	Whole State
2.	Assam	The Assam Shops and Establishments Act, 1971	Assam Municipal Board and town committees, Guwahati Municipal Corporation ,127 Semi-urban areas and entire districts of Karbi Anglong & Dima Hasao
3.	Bihar	The Bihar Shops and Establishments Act, 1953	Whole State
4.	Goa	Goa, Daman & Diu Shops and Establishments Act, 1973	Erstwhile UT of Goa, Daman and Diu
5.	Gujarat	The Shops and Establishments Act, 1948	134 Local Authorities
6.	Haryana	The Punjab Shops and Commercial Establishments Act, 1958	Whole State
7.	Himachal Pradesh	The Himachal Pradesh Shops & Commercial Establishments Act, 1969	Municipal Corporation and other Municipal areas and cantonment limits in the whole State
8.	Jharkhand	Jharkhand Shops and Commercial Establishment Act, 1953	Whole State
9.	Karnataka	The Karnataka Shops and Commercial Establishments Act, 1961	Whole State
10.	Kerala	The Kerala Shops and Commercial Establishments Act, 1960	Whole State
11.	Madhya Pradesh	Dookan Aur Vanijayik sansthapna Adhinyam, 1958	Whole State
12.	Maharashtra	The Maharashtra Shops and Establishments Act, 1948	295 Local areas
13.	Meghalaya	Shops and Establishments Act, 2003	Whole State
14.	Mizoram	Mizoram Shop & Establishment Rules, 2011	Whole State
15.	Nagaland	The Nagaland shop and establishment act. 1982	Whole State
16.	Odisha	The Odisha Shops and Commercial Establishments Act, 1956	106 Municipalities and N.A.Cs
17.	Punjab	The Punjab Shops and Commercial Establishments Act, 1958	131 Towns and other places
18.	Rajasthan	The Rajasthan Shops and Commercial Establishments Act, 1958	35 Places
19.	Tamil Nadu	The Tamil Nadu Shops and Establishments Act, 1947	Whole State
20.	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
21.	Uttar Pradesh	The Uttar Pradesh Dookan Aur Vanijaya Adhishthan Adhinyam, 1962	Whole State

22.	Andaman & Nicobar Islands	Andaman & Nicobar Islands Shops & Establishments Regulation 2004	Areas covered have not been reported in the annual return.
23.	Chandigarh	The Punjab Shops and Commercial Establishments Act, 1958	Union Territory of Chandigarh
24.	Delhi (NCT)	The Delhi Shops and Establishments Act, 1954	The whole national capital territory.
25.	Lakshadweep	NA	NA

Note: The remaining States/Union Territories did not furnish the Annual Returns for the year 2016

Table – I (B) Coverage under the Weekly Holidays Act, 1942 during 2016

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 2016 (by States/UT's)

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	234743	301873	16715	94758	7918	40924	259376	437555
2. Assam	61312	69782	15998	50727	5563	20938	82873	141447
3. Bihar	195203	204960	71968	645470	8853	96076	276024	946506
4. Goa	908	1378	641	2718	307	1739	1856	5835
5. Gujarat	261827	295733	84545	291631	9136	27600	355508	614964
6. Haryana	359011	639593	47115	955326	7020	51486	413146	1646405
7. Himachal Pradesh	59789	20380	9408	19927	9055	14303	78252	54610
8. Jharkhand	82851	316041	12836	120309	8712	81225	104399	517575
9. Karnataka	246011	528094	183568	1100752	17776	186299	447355	1815145
10. Kerala	279156	569290	47730	399435	16821	91280	343707	1060005
11. Madhya Pradesh	118716	115379	55930	86944	10461	17957	185107	220280
12. Maharashtra	2006562	1440444	820288	4511654	98758	502343	2925608	6454441
13. Meghalaya	13496	35178	2787	12890	842	6513	17125	54581
14. Mizoram	96	201	86	383	5	12	187	596
15. Nagaland	9180	1550	650	2360	1100	2706	10930	6616
16. Odisha	15603	45358	21564	87451	6327	26442	43494	159251
17. Punjab	244666	142059	37829	104706	6899	18442	289394	265207
18. Rajasthan	699008	595661	55165	438234	19621	116232	773794	1150127
19. Tamil Nadu	303017	480589	25031	140198	9133	60522	337181	681309
20. Tripura	52499	17294	897	2744	948	2191	54344	22229
21. Uttar Pradesh	353733	1121730	224796	681714	163336	452074	741865	2255518
22. A & N Islands	5897	11100	89	1800	550	1300	6536	14200
23. Chandigarh	16515	28480	6207	38648	2239	9924	24961	77052
24. Delhi (NCT)	59646	230300	18714	166265	1683	15416	80043	411981
25. Lakshdweep	-	-	-	-	-	-	-	-
Total	5679445	7212447	1760557	9957044	413063	1843944	7853065	19013435
	(72.32)	(37.93)	(22.42)	(52.37)	(5.26)	(9.70)		

Note: (i) The remaining States/Union Territories did not furnish the Annual Returns for the year, 2016.
(ii) Figures in brackets indicate percentage to total.
(iii) Percentages may not add up to 100 due to rounding off.
(iv) - = Nil

Table - III**Ownership of Shops and Employment therein during the year 2016 (by States/UT's)**

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	155442 (4.14)	79301 (4.11)	234743	234743	301873
2. Assam	28746 (0.77)	32566 (1.69)	61312	61312	69782
3. Bihar	138900 (3.70)	56303 (2.92)	195203	195203	204960
4. Goa	370 (0.01)	538 (0.03)	908	908	1378
5. Gujarat	213100 (5.68)	48727 (2.53)	261827	261827	295733
6. Haryana	230781 (6.15)	128230 (6.65)	359011	359011	639593
7. Himachal Pradesh	43715 (1.17)	16074 (0.83)	59789	59789	20380
8. Jharkhand	60573 (1.61)	22278 (1.16)	82851	82851	316041
9. Karnataka	98808 (2.63)	147203 (7.64)	246011	246011	528094
10. Kerala	137784 (3.67)	141372 (7.33)	279156	279156	569290
11. Madhya Pradesh	65847 (1.76)	52869 (2.74)	118716	118716	115379
12. Maharashtra	1450052 (38.65)	556510 (28.87)	2006562	2006562	1440444
13. Meghalaya	9143 (0.24)	4353 (0.23)	13496	13496	35178
14. Mizoram	67 (0.00)	29 (0.00)	96	96	201
15. Nagaland	8410 (0.22)	770 (0.04)	9180	9180	1550
16. Odisha	-	15603 (0.81)	15603	15603	45358
17. Punjab	169566 (4.52)	75100 (3.90)	244666	244666	142059
18. Rajasthan	423134 (11.28)	275874 (14.31)	699008	699008	595661
19. Tamil Nadu	219670 (5.86)	83347 (4.32)	303017	303017	480589
20. Tripura	36263 (0.97)	16236 (0.84)	52499	52499	17294
21. Uttar Pradesh	236688 (6.31)	117045 (6.07)	353733	353733	1121730
22. A & N Islands	1100 (0.03)	4797 (0.25)	5897	5897	11100
23. Chandigarh	9707 (0.26)	6808 (0.35)	16515	16515	28480
24. Delhi (NCT)	13941 (0.37)	45705 (2.37)	59646	59646	230300
25. Lakshdweep	-	-	-	-	-
	3751807 (66.06)	1927638 (33.94)	5679445	5679445	7212447

The remaining States/Union Territories did not furnish the Annual Returns for the year, 2016.
 Figures in brackets indicate percentage to respective total rounded off up to two decimal points.

- = Nil

Table - IV

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 2016 (by States/UT's)

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	10550	2273	626	114150
2. Assam	22915	252	57	28750
3. Bihar	1212	17	1	250
4. Goa	2264	24	-	-
5. Gujarat	38051	2024	2310	677894
6. Haryana	2692	126	188	334570
7. Himachal Pradesh	6964	1220	1024	1095400
8. Jharkhand	1154	-	-	-
9. Karnataka	25703	2324	1433	2754480
10. Kerala	36877	2758	1364	7459744
11. Madhya Pradesh	394	496	225	79550
12. Maharashtra	337118	19381	11536	34595609
13. Meghalaya	2317	-	-	-
14. Mizoram	-	-	-	-
15. Nagaland	3250	-	-	-
16. Odisha	1910	119	6	930
17. Punjab	7743	26	164	17100
18. Rajasthan	1465	1	7	1600
19. Tamil Nadu	236082	78	29	4650
20. Tripura	20901	145	68	98600
21. Uttar Pradesh	11567	3128	1645	319
22. A & N Islands	10	-	-	-
23. Chandigarh	59311	28245	27074	4354348
24. Delhi (NCT)	-	-	-	-
25. Lakshdweep	-	-	-	-
Total	830450	62637	47757	51617944

The remaining States/Union Territories did not furnish the Annual Returns for the year, 2016.

- = Nil