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# KARNATAKA EMPLOYERS' ASSOCIATION

NO.74, 2<sup>nd</sup> FLOOR, SHANKARA ARCADE, VANIVILAS ROAD, BASAVANAGUDI  
BENGALURU - 560 004  
Reg. No. TU 507 / 20-3-1962

Date : 25.09.2018

CIRCULAR No.71/2018

To  
All Members of the Association

**Appointment of Labour Minister as Chairman of  
the Karnataka State Contract Labour Advisory  
Board.**

1. The Government of Karnataka by notification No. LD/184-LWA/ 2018 dated 04.08.2018 has appointed Hon'ble Labour Minister as the Chairman of Karnataka State Labour Advisory Board in place of Additional Chief Secretary. The said appointment is not in accordance with the Rule-3 of Contract Labour (Regulation and Abolition) Karnataka Rules.
2. The above appointment not being in accordance with applicable provisions of law, is illegal. The Association has taken up the matter with the Govt. of Karnataka to review the appointment of the Labour Minister as the Chairman and to make appointment in accordance with the Rules.
3. A Copy of the letter dated 24.09.2018 in respect of the above sent by the Association to the Secretary-Labour, Department of Labour, Govt. of Karnataka, is enclosed.

for KARNATAKA EMPLOYERS' ASSOCIATION

sd/-  
(B.C. PRABHAKAR)  
PRESIDENT



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**B.C. Prabhakar, B.A., B.L.**  
President

Date : 24.09.2018

The Labour Secretary  
Department of Labour  
Government of Karnataka  
Vikasa Soudha  
Bengaluru 560 001.

Sir,

**Sub: Notification appointing Labour Minister as Chairman  
of the Karnataka State Contract Labour Advisory Board.**

1. The Association has come across Notification No. LD/184-LWA/2018 dated 04.08.2018 under which the Government has cancelled the appointment of Additional Chief Secretary, as the Chairman of Karnataka State Advisory Contract Labour Board and in his place, Hon'ble Labour Minister of Government of Karnataka has been appointed. The same is impermissible in law for the reasons stated in the paragraphs below.

2. Section 4 of the Contract Labour (Regulation and Abolition) Act, 1970, (hereafter referred to as CLRA Act) contains provision with regard to constitution of the Board and Section reads as under :

#### **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 Act as may be referred to it and to carry out other functions assigned to it under this Act. -

*Bcf*

*Avi*  
24/9/18



(2) The State Board shall consist of-

(a) 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 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 State 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 employers and the contractors.

3. Rule-3 of CLRA (Karnataka) Rules contains the provision with regard to nomination of members of the Board by the Government and provides as under:

**3. Nomination of members of the Board by the Government:**

-

(1) The Government shall nominate eleven members to represent the Government, the industry, the contractors and the workmen.

(2) The number of persons to be appointed as members from each of the categories specified in sub-rule (1) shall be as indicated below:

**(a) one person representing the Government to be appointed by the Government from among its officers; (emphasis added).**

RCF



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(b) five persons one representing the employers in the public sector undertakings run by the Government, one representing the Karnataka State Electricity Board, one representing employers in the private sector undertakings and two representing; contractors to whom the Act applies to be appointed by Government after; consultation with such organisations, if any, of the employers and the contractors, as may be recognised by the Government;

(c) five persons one representing employees in the public sector undertakings run by the Government, one representing the employees of the Karnataka State Electricity Board, one representing employees in the private sector undertaking and two representing employees of contractors to whom the Act applies, to be appointed by the Government in consultation with such organisations, if any, (employees representing the respective interests, as may be recognised by the Government.

4. The above Rule makes it abundantly clear that the Government may appoint its representative on the Advisory Board from amongst its officers. **Minister of Labour is not an Officer of the Government.**

5. In the above context, the Association would like to refer to the decision of the Hon'ble High Court of Karnataka in the case of Karnataka Planters Association vs. State of Karnataka, reported in ILR 1986 KAR page-1787. The challenge before the court was with regard to appointment of the Labour Minister as the Chairman of the committee constituted under section 9 of the Minimum Wages

*Ref*

Act. The following observations of the Hon'ble Court may be referred to.

**A minister may be a public servant for the purpose of prosecution under the Prevention of Corruption Act but that does not mean that he is a civil servant. His role as a chairman of the Board in these cases conflicted with his role as the Minister of Government.**

6. The Association, therefore, respectfully but firmly submits that the appointment of the Minister as the Member of the Board and as Chairman of the Advisory Board, is not in accordance with the Rules.
7. The appointment of Labour Minister as Chairman of the Advisory Board is not in accordance with the mandatory provisions in the rules. Minister of Labour is not an officer of the government. The appointment of Labour Minister as the Chairman of the Board is contrary to the rules and ab initio void. If the committee is allowed to function as per the present constitution of the committee, its deliberations and recommendations will not be sustainable in law. The only consequence will be multiple litigation and thus, ultimately the interest of the contract labourers would be at stake. In place of Minister, the Government may consider appointing Departmental Officials i.e., Labour Commissioner or other next senior officer in the department.
8. The Association further submits that the Minister of Labour as well as Secretary to the Government cannot be appointed as Chairman of the Advisory Board. It amounts to Government consulting the Government and the conflict of interest situation as envisaged in

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law would arise and thus, making the Committee and its recommendations becoming invalid in law.

9. The Association, therefore, requests the Government to review appointment of the Labour Minister as Chairman of the Board and appoint a Chairman in accordance with Rule-3 of CLRA (Karnataka) Rules.

Thanking you,

Yours faithfully,  
For Karnataka Employers' Association

*B.C. Prabhakar*  
President

cc: The Commissioner of Labour, Govt. of Karnataka, Karmika Bhavana,  
Bannerughatta Road, Bengaluru 560 029.



ಕರ್ನಾಟಕ ಸರ್ಕಾರ

ಸಂಖ್ಯೆ: ಕಾಇ 184 ಎಲ್‌ಡಬ್ಲ್ಯೂಎ 2018

ಕರ್ನಾಟಕ ಸರ್ಕಾರದ ಸಚಿವಾಲಯ,  
ವಿಕಾಸ ಸೌಧ,

ಬೆಂಗಳೂರು, ದಿನಾಂಕ: 04-08-2018

ಅಧಿಸೂಚನೆ

ಸರ್ಕಾರದ ಅಧಿಸೂಚನೆ ಸಂಖ್ಯೆ: ಕಾಇ 162 ಎಲ್‌ಡಬ್ಲ್ಯೂಎ 2015, ದಿನಾಂಕ: 27-02-2017 ರನ್ವಯ ಕಾರ್ಮಿಕ ಇಲಾಖೆಯ ಸರ್ಕಾರದ ಅಪರ ಮುಖ್ಯ ಕಾರ್ಯದರ್ಶಿ, ಕರ್ನಾಟಕ ಸರ್ಕಾರ, ಬೆಂಗಳೂರು ಇವರನ್ನು ಕರ್ನಾಟಕ ರಾಜ್ಯ ಗುತ್ತಿಗೆ ಕಾರ್ಮಿಕರ ಸಲಹಾ ಮಂಡಳಿಯ ಅಧ್ಯಕ್ಷರ ಹುದ್ದೆಗೆ ನೇಮಿಸಿ, ಆದೇಶಿಸಿರುವುದನ್ನು ರದ್ದುಪಡಿಸಿ, ಸದರಿ ಹುದ್ದೆಗೆ ಮಾನ್ಯ ಕಾರ್ಮಿಕ ಸಚಿವರನ್ನು ತಕ್ಷಣದಿಂದ ಜಾರಿಗೆ ಬರುವಂತೆ ಹಾಗೂ ಮುಂದಿನ ಆದೇಶದವರೆಗೆ ನೇಮಿಸಿ, ಆದೇಶಿಸಿದೆ.

ಕರ್ನಾಟಕ ರಾಜ್ಯಪಾಲರ ಆದೇಶಾನುಸಾರ

ಮತ್ತು ಅವರ ಹೆಸರಿನಲ್ಲಿ

(ಎಲ್.ಎಸ್. ಶ್ರೀಕಂಠಬಾಬು)

ಸರ್ಕಾರದ ಉಪ ಕಾರ್ಯದರ್ಶಿ,

ಕಾರ್ಮಿಕ ಇಲಾಖೆ.

04/08/2018

7/8/18

MW

8/8/18

18/8/18

ಇವರಿಗೆ,

ಸಂಕಲನಕಾರರು, ಸರ್ಕಾರಿ ಮುದ್ರಣಾಲಯ, ಬೆಂಗಳೂರು ಇವರಿಗೆ ಈ ಅಧಿಸೂಚನೆಯನ್ನು ವಿಶೇಷ ರಾಜ್ಯ ಪತ್ರದಲ್ಲಿ ಪ್ರಕಟಿಸಿ, ಸದರಿ ಪ್ರಕಟಣೆಯ 200 ಪ್ರತಿಗಳನ್ನು ಸರ್ಕಾರದ ಕಾರ್ಯದರ್ಶಿಗಳು, ಕಾರ್ಮಿಕ ಇಲಾಖೆ, 4ನೇ ಮಹಡಿ, ವಿಕಾಸಸೌಧ, ಬೆಂಗಳೂರು-1 ಇವರಿಗೆ, ಕಳುಹಿಸುವಂತೆ ಕೋರಲಾಗಿದೆ.

ಪ್ರತಿಗಳು:

1. ಕಾರ್ಮಿಕ ಆಯುಕ್ತರು, ಕಾರ್ಮಿಕ ಭವನ, ಬನ್ನೇರುಘಟ್ಟ ರಸ್ತೆ, ಬೆಂಗಳೂರು-29.
2. ಮಂಡಳಿಯ ಎಲ್ಲಾ ಸದಸ್ಯರಿಗೆ (ಕಾರ್ಮಿಕ ಆಯುಕ್ತರ ಮೂಲಕ).
3. ಮಾನ್ಯ ಕಾರ್ಮಿಕ ಸಚಿವರ ಆಪ್ತ ಕಾರ್ಯದರ್ಶಿಗಳು, ವಿಧಾನಸೌಧ, ಬೆಂಗಳೂರು.
4. ಸರ್ಕಾರದ ಕಾರ್ಯದರ್ಶಿಯವರ ಆಪ್ತ ಕಾರ್ಯದರ್ಶಿ, ಕಾರ್ಮಿಕ ಇಲಾಖೆ.
5. ಸರ್ಕಾರದ ಉಪ ಕಾರ್ಯದರ್ಶಿ-1ರವರ ಆಪ್ತ ಸಹಾಯಕರು, ಕಾರ್ಮಿಕ ಇಲಾಖೆ.
6. ಸರ್ಕಾರದ ಉಪ ಕಾರ್ಯದರ್ಶಿ-2ರವರ ಆಪ್ತ ಸಹಾಯಕರು, ಕಾರ್ಮಿಕ ಇಲಾಖೆ.
7. ಶಾಖಾ ರಕ್ಷಕರ/ಹೆಚ್ಚುವರಿ ಪ್ರತಿ.

04/8/2018