

The Right to Work*

1. What is meant by Right to Work?

The right to work is closely related to other basic rights such as the right to life, the right to food and the right to education. In a country where millions of people are deprived of any economic assets other than labour power, gainful employment is essential for these rights to be fulfilled. Indeed, unemployment is the main cause of widespread poverty and hunger in India. The right to work states that everyone should be given the opportunity to work for a basic living wage.

2. What does the constitution say about the Right to Work?

The Indian constitution refers to the right to work under the “directive principles of state policy”. Article 39 urges the State to ensure that “the citizens, men and women equally, have the right to an adequate means to livelihood”, and that “there is equal pay for equal work for both men and women. Further, Article 41 stresses that “the state, shall within the limits of its economic capacity and development, make effective provision for securing right to work...”

3. What has been done in India to make the Right to Work a reality?

In India, there is a long tradition of labour-intensive rural works programmes, especially in years of drought. These programmes, however, are not based on the right to work. They are just additional employment opportunities provided by the state, as and when resources and commitment are available. So far, the only serious attempt to make the right to work a reality is Maharashtra’s “employment guarantee scheme”.

4. What is Maharashtra’s Employment Guarantee Scheme?

Maharashtra’s “employment guarantee scheme” (EGS) was the outcome of a struggle for protection from poverty and unemployment, which began during the massive drought of 1970-73. Maharashtra’s Employment Guarantee Act was passed unanimously by the State Assembly, and came into force in January 1979. According to Article 3 of the Act: “Every adult person in the rural areas in Maharashtra shall have the right to get guaranteed employment for doing unskilled manual work and to receive wages thereof weekly, or in any case, not later than a fortnight”. Thus, *guaranteed employment* was the cornerstone of the programme.

Some salient features of the programme are:

- All adult persons are entitled to work.
- The person demanding work has no choice regarding the nature of the work.

* This “briefing note” was prepared by Aparajita Goyal in association with the Support Group of the Right to Food Campaign. It is intended mainly as a factual resource, and does not claim to represent the views of the Campaign as a whole.

- The employment seeker must get his/her name registered in any block level office. He/she will be given an identity card upon registration and work will be provided within a fortnight from the date of registration.
- Wages are paid on a piece-rate basis.
- Only productive works (e.g. water and moisture conservation works, land development works, reforestation) are permitted under the scheme.
- Works shall be in rural areas and within a radius of 5 kms from the worker's place of residence.
- The guarantee is given to the district level, though operationally works are normally provided within the Panchayat Samiti Area.
- Failure to provide employment creates the liability on the state for payment of unemployment allowance @Rs. 2 per day.
- Welfare amenities are also provided to the workers such as potable water, crèches, first aid facilities, rest shade and compensation for death.

5. Why is the guarantee of work important?

There are several reasons why a guarantee of employment, as opposed to ad hoc employment provisions by state, can make a real difference:

- A guarantee of employment strengthens the bargaining power of those who are demanding work. This consideration is paramount, given the pervasive problem of official inertia in the absence of organised public pressure.
- A demand-driven approach ensures that employment is provided where and when it is most needed. When employment is allocated from the top down, the whims of bureaucrats and politicians often matter more than the real needs of the people.
- An employment guarantee scheme also facilitates the inclusion of the poorest of the poor in employment programmes. When employment opportunities are limited, those with greater clout and better connections (among potential workers) tend to get the work at the expense of the more vulnerable. In contrast, an open-ended employment guarantee is based on "self-selection", whereby the poor themselves decide whether or not to participate.
- The right to work brings security in people's lives. Today, labourers cannot count on employment being provided to them during the lean season. The result is massive seasonal migration, especially in dryland areas. An employment guarantee programme would give labourers greater confidence in the prospect of local employment, and discourage seasonal migration.
- A legally binding employment guarantee programme is likely to be far more durable than ad hoc employment schemes. Maharashtra's EGS has already lasted for nearly three decades, in spite of major changes in political leadership over the years. By contrast, other employment programmes have tended to be fragile and short-lived. Within the last three years alone, several employment programmes have come and gone.

6. What is the cost of Maharashtra's employment guarantee scheme and how is it financed?

In 1999-2000, the government of Maharashtra spent about Rs 500 crores on EGS. This represents 2.3% of the state's "domestic product". The cost per person-day of

employment was around Rs 52 in 1999-2000. A total of 9.5 crore person-days were generated over the year. Employment generation under EGS peaked in 1985-86, when close to 20 crore person-days of work were provided. Labour attendance varies with season. For example, in 1987-88, 9.4 lakh workers were employed in May and only 2.3 lakh workers in October. Attendance is usually higher during lean season.

The scheme is totally financed by the state government. To raise resources for implementation of the scheme, the state government has levied special taxes and levies: 1) tax on professions, traders, callings and employment 2) Additional tax on motor vehicles 3) Additional Tax on Sales tax 4) Special assessment on irrigated agricultural lands 5) surcharge of land revenue. The state government also makes a matching contribution equal to net collection of taxes and levies each year. A separate 'Employment Guarantee Fund' has been constituted to ensure that resources raised for the implementation of EGS are utilized only for the purpose of EGS.

7. What is the impact of Maharashtra's EGS on employment and poverty?

Numerous studies indicate that Maharashtra's EGS had an impressive impact on employment as compared to other anti-poverty programmes in India. Close to 80% of the EGS workers are below the poverty line and those belonging to socially backward classes. EGS has It is claimed to have eliminated 7% if the unemployment in 1987-88 in the state.

8. What are the other achievements of the Scheme?

Empowerment of women – In Rural Maharashtra, EGS is known as the 'programme of women'. The proportion of women among EGS labourers is close to 45%. EGS is an important source of gainful employment for women, which contributes to their economic independence and social empowerment.

Economic benefits – EGS contributes to the creation of rural assets such a roads, percolation tanks, etc. that boost agricultural growth and wages. There is also evidence that the EGS raises agricultural wages by strengthening the bargaining power of rural labourers, and protects the rural poor from seasonal fluctuations in employment and income. Further, EGS has helped to contain rural-urban migration, by expanding employment opportunities in rural areas.

Mobilisation of poor – Concentrating large numbers of workers in one place in similar conditions and increasing their interaction has helped to break down social differences. It has been possible to organize agricultural labourers, who are otherwise scattered and disorganized, to fight against oppression and exploitation. If employment is an entitlement then EGS can facilitate effective political action by the poor and can promote the realization of their common interest by making rural politicians more responsive to the demands of the poor.

9. What shortcomings have been observed during the course of implementation of this scheme?

What distinguishes EGS from other rural employment programmes in the statutory, judicially protected work guarantee. However employment is sometimes not 'guaranteed' due to several factors related to design and implementation of the scheme:

- a. The procedure of getting employed under EGS is lengthy and riddled with bureaucratic procedures. Labourers have to fill up many forms; since most of them are illiterate it becomes difficult.
- b. Officials of the programme consider EGS as employment of last resort rather than as an anti-poverty programme. They expect labourers to search for better opportunities regardless of whether such opportunities exist.
- c. There is a large scope for corruption in the schemes as officials boost muster rolls with bogus names or inflate measures of work done in their records to make enormous sums of money for themselves.
- d. Administration faces difficulty in identifying and designing works in the vicinity of the villages.
- e. Lack of information about Right to Work – Needy labourers are not informed about their right to work and the procedure for wages by district employment guarantee committees, which leaves them vulnerable to exploitation.
- f. According to EGS design, one is entitled to get the minimum wage when one works for 7 hours a day but micro–studies reveal recipients are getting much less. There have been cases of corruption and leakage because of the complicated piece-rate system.
- g. There are inordinate delays in the payment of wages (that are supposed to be paid within 2 weeks of completion of the job) due to administrative lapses.

10. What are the demands put forward by organisations concerned with the Right to Work?

There is a strong case for the introduction of a nation-wide legally binding employment guarantee programme building on Maharashtra's experience. A number of networks and organisations have been demanding the recognition and implementation of the right to work, including an Employment Guarantee Act (EGA) in other states and at the national level.

Not only would a national EGA provide much needed employment to the poor, it also has the potential to change the rural economy. It would mean a huge rise in the purchasing power of the rural poor, thus providing demand and markets for a wide range of essential goods. The large-scale creation of rural assets such as roads, tanks, canals, etc. (and also environmental protection works) would help to increase the productivity in rural areas in the long run. Also, if the top-down approach followed under the Maharashtra EGS is replaced by a system where the people decide on the works to be taken up, EGS could also provide a means for people to take part in the decisions on the development in their areas.

The case is particularly strong at this time, when close to 50 million tones of foodgrain are lying idle in public warehouses across the country. These resources provide a unique opportunity to make the right to work a reality. Similarly organisations in Maharashtra have been trying to ensure proper implementation of the act and have been struggling to foil attempts by state governments to reduce funds available for EGS.