

New Labour Codes of India
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Lecture 52
Role of Inspector-cum-Facilitator and Other Authorities

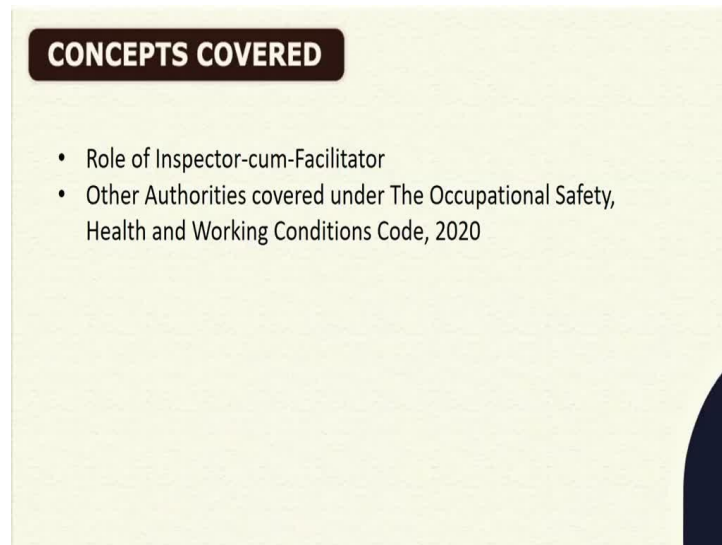
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Dear students, in this class, we are going to discuss about the important person who is connected with the factories that is earlier under the old legislation, it was the Factories Inspector. And now the role of the Factories Inspector has been changed and now it is the inspector's name has been changed to Inspector cum Facilitator.

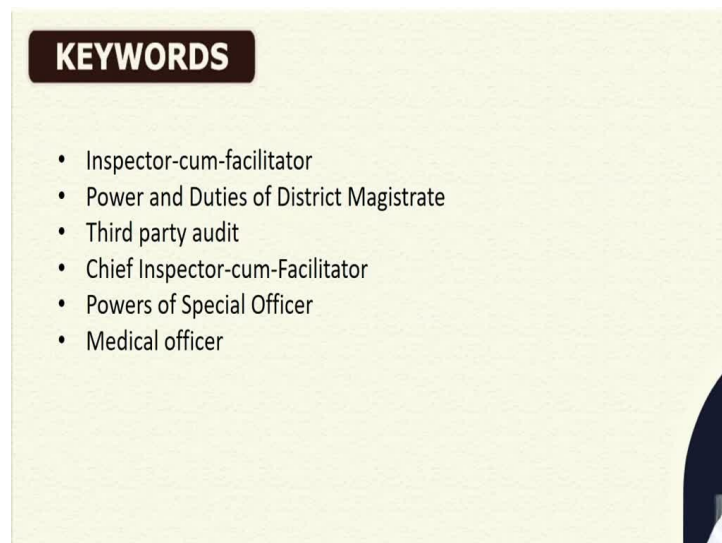
So we are remembering the 60's or 70's it is the license Raj system was implemented, so the inspectors were appointed to do the inspections. But now, the changing scenario, their role also changes, the nature of their appointment also changes and their duties also changes and also today we are going to discuss in this class about the powers and duties of inspectors, Inspector cum facilitator and other authorities.

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So we know that any legislation its success is dependent upon enforcement and the inspectors are nothing but the enforcement officers, they implemented these particular provisions of Factories Act old Act very clearly during the old regime, but now their role has been changed under the Occupational Safety Health and Working Conditions Code of 2020. The role has been changed, that is why their name is also changed to Inspector cum Facilitator.

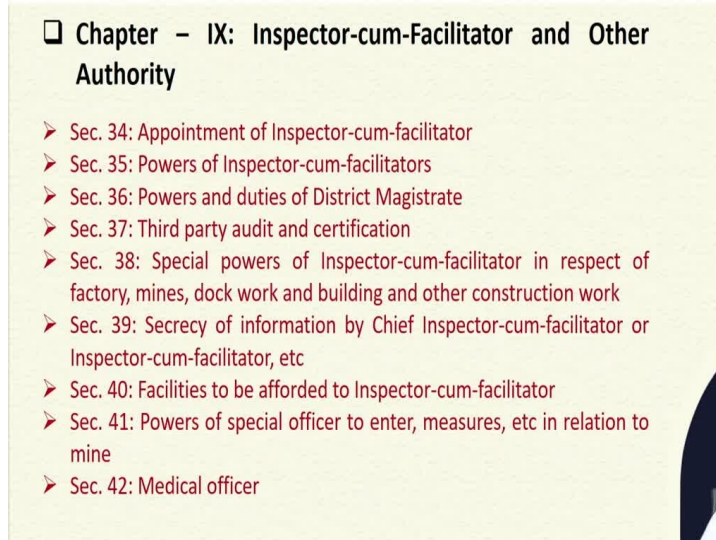
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So we are going to look into today the role of inspector-cum-facilitator and what are the provisions. So the Inspector cum facilitator is a very important role in the implementation of the new code. So he is the enforcement authority. And also the labour codes, you can say that he is the connection between the worker, employer or the employees and employer, so he is

the party who is in between these two people. So the enforcement mechanisms also have in the code.

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So here we will see their appointments, their powers, and the duties of not only the Inspector cum facilitators but also District Magistrates and third-party audit system, which is implemented through this particular code. And then the special powers of the Inspector cum facilitators in respect of certain establishments like the factory, mines, dock work, buildings and other construction work.

And then secrecy of information received by the Chief Inspector cum facilitator. And also we can see what facilities are to be afforded to the Inspector cum facilitator and then certain powers of other offices like the medical officer, this also we will look into.

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- ❑ **Sec. 2(ze): Definition of Inspector-cum-facilitator**
means "an Inspector-cum-facilitator" appointed u/s. 34(1)
- ❑ Sec. 18: Appointment of Inspector-cum-facilitators
 - The appropriate govt, by notification, appoint Inspector-cum-facilitator, who shall exercise the powers conferred under this Code, within their respective jurisdiction
 - The Inspector-cum-facilitator, apart from his other duties to be discharged under this Code, shall conduct inspections on the specified schemes, notified by the Appropriate govt.

So an Inspector cum facilitator is appointed under Section 34(1). So the appropriate governments, so definitely central government and state governments can appoint as many numbers of Inspector cum facilitator and their duties as well as their obligations should be mentioned in during their appointments and that must be in accordance with the code, occupational safety code.

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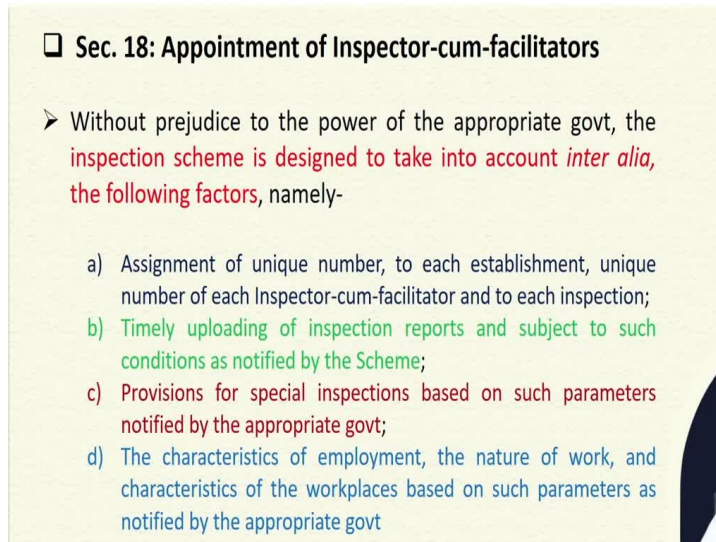
- ❑ **Sec. 18: Appointment of Inspector-cum-facilitators**
 - Schemes are specified by the Appropriate Govt for Inspection
 - i. The inspection scheme which contain the generation of web based inspection and calling of information, electronically;
 - ii. The scheme, *inter alia*, have the provisions to cater to special circumstances for assigning inspection and calling for information from establishment or any other person besides web-based inspections;
 - iii. The scheme provides for the randomized selection of establishment and the Inspector-cum-facilitator for inspection

So inspection scheme is like that, and the inspection scheme contains the generation of web-based inspection. So as a part of transparency, the government has newly come out with this particular facility, that is the web-based inspection and calling of information electronically. Even though this is mentioned in the new Act, that this will be done with the employees, the

employer is not going to see who is the Inspector and the Inspector is going to inspect randomly the factories or the inspection procedures.

So the scheme provides for a randomized selection of establishment and Inspector cum facilitator for inspection. So everything is going to be random wise in order to reduce the bureaucracy as well as the transparency.

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□ **Sec. 18: Appointment of Inspector-cum-facilitators**

➤ Without prejudice to the power of the appropriate govt, the inspection scheme is designed to take into account *inter alia*, the following factors, namely-

- a) Assignment of unique number, to each establishment, unique number of each Inspector-cum-facilitator and to each inspection;
- b) Timely uploading of inspection reports and subject to such conditions as notified by the Scheme;
- c) Provisions for special inspections based on such parameters notified by the appropriate govt;
- d) The characteristics of employment, the nature of work, and characteristics of the workplaces based on such parameters as notified by the appropriate govt

And also you can see the powers of the government. So the inspection scheme is designed to take into account the factors of assignment of a unique number to each and every factory, each and every owner. So unique number for each Inspector and for each inspection. So a number to factories, a number to employees, unique numbers to inspectors, unique number to each inspection carried out by these inspectors.

And again the parameters which you can see that the characteristics of employment, nature of work, and characteristics of the workplace based on such parameters as notified by the appropriate government that is central government as well as the state government have discovered these particular powers.

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❑ **Sec. 18: Appointment of Inspector-cum-facilitators**

- The appropriate govt. may appoint any person to be the Chief Inspector-cum-facilitator, either for one State or for more States or for whole country
- The qualifications and experience of the Chief Inspector-cum-facilitator shall be determined by the rules
- **The appropriate govt may appoint:**
 - i. Additional Chief Inspector-cum-facilitators;
 - ii. Joint Chief Inspector-cum-facilitators;
 - iii. Deputy Chief Inspector-cum-facilitators;
 - iv. Any other officer

To exercise the powers of Chief Inspector-cum-facilitators within his jurisdiction as may be specified by the notification

➤ They are the public servants u/s. 21 of Indian Penal Code. 1860

And also you can see that the state government and central government can appoint any person to be chief Inspector cum facilitator for the state or for the centre, so qualifications and experience are already mentioned. So the government can appoint any additional chief Inspector cum facilitator, joint chief Inspector cum facilitator, deputy chief Inspector cum facilitator, and any other officers. So powers of Inspector cum facilitators we have to only look into the Inspector cum facilitator and they are going to be the public servants under the all purposes of Indian Penal Code.

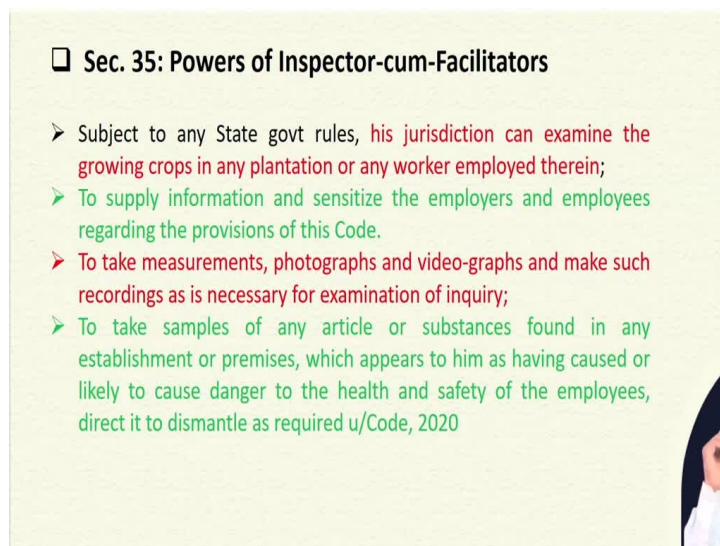
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❑ **Sec. 35: Powers of Inspector-cum-Facilitators**

- To enter with such assistance, being the govt. personnel or any local or other public authority or with an expert, as he thinks fit, any place which is used or which he has reason to believe is used as workplace;
- To inspect and examine the establishment, any premises, plant, machinery, article, or any other relevant material;
- To inquire into any accident or dangerous occurrence, whether resulting in bodily injury, disability or death or not and take on the spot the statement of any person about that injury;

And he has certain powers he can enter any premises and the employer cannot stop him. And also if any kind of accident or dangerous occurrence is going on in a particular place, so he can visit and also he can talk to the workers. So he can inspect, he can examine the establishment, the premises, plant, machinery, articles, and relevant materials, and also he can inquire into any particular incidents or accidents or dangerous occurrences. So he can ask whether it is bodily injury and also disabling or death, and also he can take on a spot the statement of any person about injury, he can take on record the statements of any place person.

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□ **Sec. 35: Powers of Inspector-cum-Facilitators**

- Subject to any State govt rules, his jurisdiction can examine the growing crops in any plantation or any worker employed therein;
- To supply information and sensitize the employers and employees regarding the provisions of this Code.
- To take measurements, photographs and video-graphs and make such recordings as is necessary for examination of inquiry;
- To take samples of any article or substances found in any establishment or premises, which appears to him as having caused or likely to cause danger to the health and safety of the employees, direct it to dismantle as required u/Code, 2020

And also we can see that his jurisdiction can examine the growing crops on any plantation or any workers employed therein. So he is not only a factory inspector, he is an Inspector cum facilitator not only for the factories but also for the plantations as well. So he can go to the plantation and also he can talk to these plantation workers as well. And also supply of information and sensitize the employees and employers regarding the provisions of this particular code, he can go directly and talk to the employees or the workers.

And he can take photographs, he can take measurements, and any kind of recordings and even examinations as a part of the inquiry. And you can say that the articles and substances in any establishment that appears to him as caused or likely to cause danger to the health and safety of employees, then also they can inform law to the Chief Inspector of factories under the new code of 2020.

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- To inspect and examine the establishment, any premises, plant, machinery, article, or any other relevant material;
- To inquire into any accident or dangerous occurrence, whether resulting in bodily injury, disability or death or not and take on the spot the statement of any person about that injury;

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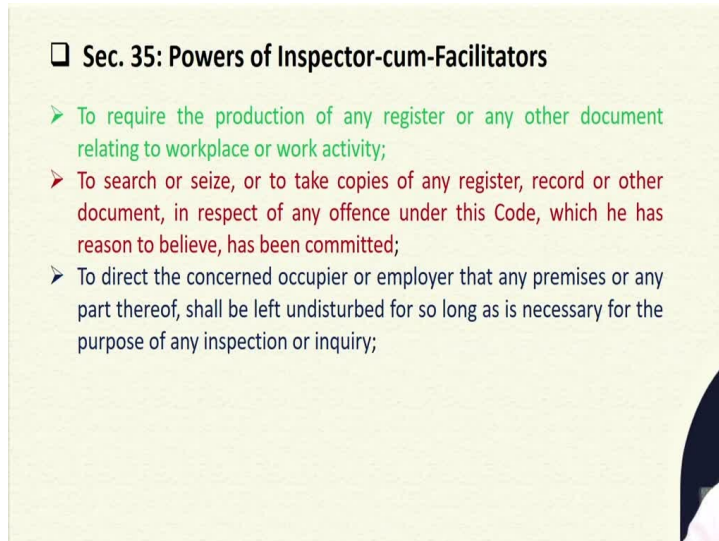
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❑ Sec. 35: Powers of Inspector-cum-Facilitators

- To require the production of any register or any other document relating to workplace or work activity;
- To search or seize, or to take copies of any register, record or other document, in respect of any offence under this Code, which he has reason to believe, has been committed;
- To direct the concerned occupier or employer that any premises or any part thereof, shall be left undisturbed for so long as is necessary for the purpose of any inspection or inquiry;

So he can take even assistance for entering into the premises and inspection of the premises plant machinery etc. So we can see that this we said that poverty which includes taking samples, taking measurements, taking photographs, and also so the employer cannot stop him from taking photographs or videographs.

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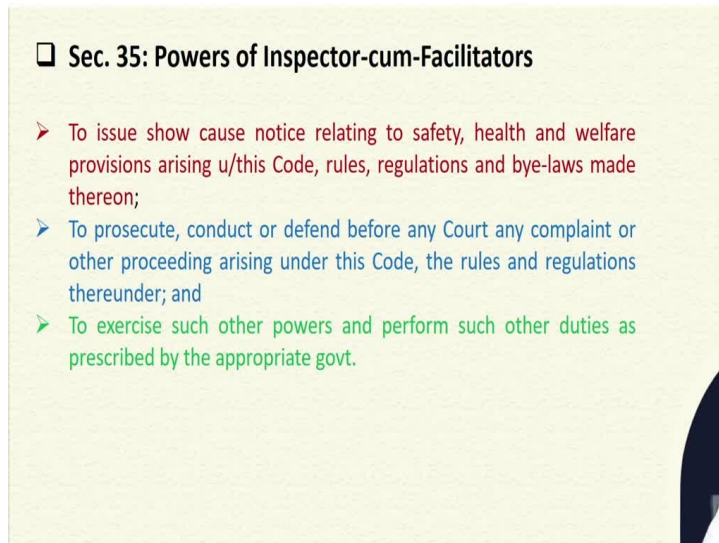


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- To direct the concerned occupier or employer that any premises or any part thereof, shall be left undisturbed for so long as is necessary for the purpose of any inspection or inquiry;

And also the employer has to produce various registers related to the workplace and other activities or wage slips or wage register or it is bonus register or it is any other register asked by the Inspector cum facilitator. So it is the duty of the employers to produce these particular books to the Inspector cum facilitators.

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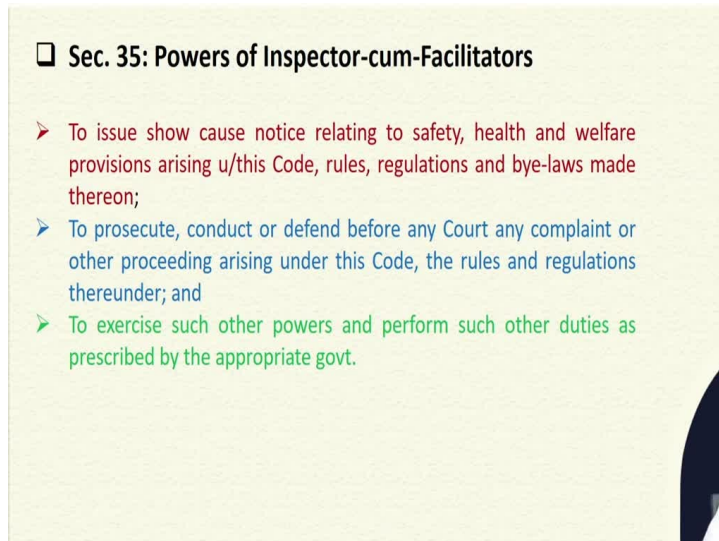


❑ Sec. 35: Powers of Inspector-cum-Facilitators

- To issue show cause notice relating to safety, health and welfare provisions arising u/this Code, rules, regulations and bye-laws made thereon;
- To prosecute, conduct or defend before any Court any complaint or other proceeding arising under this Code, the rules and regulations thereunder; and
- To exercise such other powers and perform such other duties as prescribed by the appropriate govt.

And also he can issue show cause notice to the employer with regard to health, safety, and welfare. So he can ask for any notice directly and he can even prosecute the particular people.

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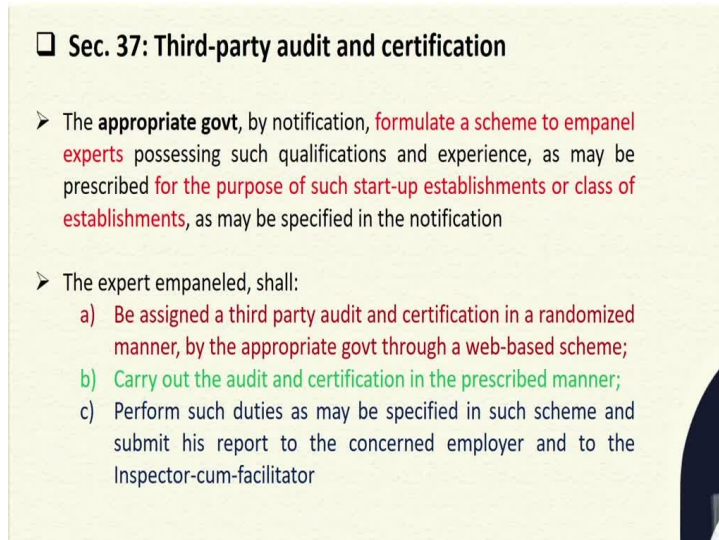
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- To exercise such other powers and perform such other duties as prescribed by the appropriate govt.

And we know that there are wide powers with the Inspector cum facilitator, because these powers are entrusted to them in good faith as public servants, they are considered to be public servants for the purposes of Indian Penal Code. Moreover, these duties of this particular Inspector cum facilitators there are certain duties for the district magistrate.

So here for sec 36 district magistrates within that particular jurisdiction excise such powers and duties of Inspector cum facilitator in respect of mines as prescribed by the central government. So the District Magistrate also have a responsibility in this particular case.

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□ **Sec. 37: Third-party audit and certification**

- The **appropriate govt**, by notification, **formulate a scheme to empanel experts** possessing such qualifications and experience, as may be prescribed **for the purpose of such start-up establishments or class of establishments**, as may be specified in the notification
- The expert empaneled, shall:
 - a) **Be assigned a third party audit and certification in a randomized manner, by the appropriate govt through a web-based scheme;**
 - b) **Carry out the audit and certification in the prescribed manner;**
 - c) Perform such duties as may be specified in such scheme and submit his report to the concerned employer and to the Inspector-cum-facilitator

Third-party audit and certification is a new idea inserted into the particular new code. So here the appropriate government formulate schemes to empanel experts and process such qualification and experience prescribed for the purposes of such startup establishments or class of establishments may be specified in the notification.

So the exempted panel can also be notified by the government. So a third-party audit and certification in a randomized manner the appropriate government can give this particular audit to a third party and carry out the audit and certification of the person in the prescribed manner. So auditing is another tool and any other duties performed by or directed by the state government or the central government.

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❑ **Sec. 38: Special powers of Inspector-cum-facilitator in respect of factory, mines, dock work and building and other construction work**

- Without prejudice to the other powers, the Inspector-cum-facilitator shall have special powers in respect of factory, mines, dock work and building and other construction work

So we can see certain special powers of this Inspector cum facilitator with respect to the factory, mines and other construction works. So without prejudice, any kind of prejudice to the powers, Inspector cum facilitators can enter inside the factory, mines or its dock worker and building worker, a construction worker. So the Inspector cum facilitator has powers prescribed under this particular Act.

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❑ **Special power of Inspector-cum-facilitator in respect of factory**

- Where it appears to the Inspector-cum-facilitator that condition of factory or part thereof, may cause serious hazard or imminent danger by way of injury or death to the persons employed therein, he order the occupier of such factory to prohibit persons employing therein till such danger has been removed;
- Such order shall have period of 3 days unless, it has been extended by the Chief Inspector-cum-facilitator;
- Any person, being aggrieved by such order, may appeal to High Court;
- Any person, whose employment gets affected by such order, without being prejudice to the rights of the parties u/Industrial Dispute Act, 1947, be entitled to wages and other benefits

And there are special powers of the Inspector cum facilitator which include, you can see that if it appears to the Inspector cum facilitator that the condition of the factory or part he may have serious hazard or imminent danger be aware, so we know that there are many things happens. So if any order has been not made for 3 days, it has been extended by the chief

Inspector cum facilitator. Otherwise, if any agreed by the order also you can appeal to the High Court. So an appeal system is also present there.

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❑ **Special power of Inspector-cum-facilitator in respect of mines**

- If the Chief Inspector-cum-facilitator or Inspector-cum-facilitator, is of opinion that **there is an urgent and immediate danger to the life or safety of any person employed therein**, may **issue an order to prohibit that area from employment until he is satisfied that such danger has been removed**
- Every person whose **employment has been prohibited under the above mentioned clause, is entitled for full wages**
- Where such notice is given to remove the danger, the **employer within 10 days after receipt of the notice, appeal before the Chief Inspector-cum-facilitator**, who may confirm, modify or cancel such order
- No order shall be made u/this section unless, a reasonable opportunity has been given to employer or manager or supervisor or any other person to defend their stand

And also we can see that the special powers have with regard to mines so many times we said that mines have a per place is special importance, because of the higher risk attached to a particular mine, so the safety of mines is very important. So the employer here fails to comply with the notice, and the Inspector cum facilitator can prohibit employment in such mines or such factories.

So and also you can see that extraction. So we can say that if the employer fails to comply with any of these notices, the Inspector cum facilitator can prohibit employment in that particular mine, subject to all other safety conditions also do not meet, and then the Inspector cum facilitator can order for closing of such mines.

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❑ **Special power of Inspector-cum-facilitator in respect of mines**

- If the Chief Inspector-cum-facilitator or Inspector-cum-facilitator, is of opinion that **there is an urgent and immediate danger to the life or safety of any person employed therein**, may **issue an order to prohibit that area from employment until he is satisfied that such danger has been removed**
- Every person whose **employment has been prohibited under the above mentioned clause, is entitled for full wages**
- Where such notice is given to remove the danger, the **employer within 10 days after receipt of the notice, appeal before the Chief Inspector-cum-facilitator**, who may confirm, modify or cancel such order
- No order shall be made u/this section unless, a reasonable opportunity has been given to employer or manager or supervisor or any other person to defend their stand

And also we can see these if there is an urgent and immediate danger to the life or safety of the person employed, then they may issue an order prohibiting the particular area from employment until he is satisfied that the danger has been removed. And also every person whose employment has been prohibited on the above-mentioned cause is eligible to get full wages. So the employer within 10 days after receipt of the notice, appeals before the chief Inspector cum facilitator who may confirm or modify or reject the obligations.

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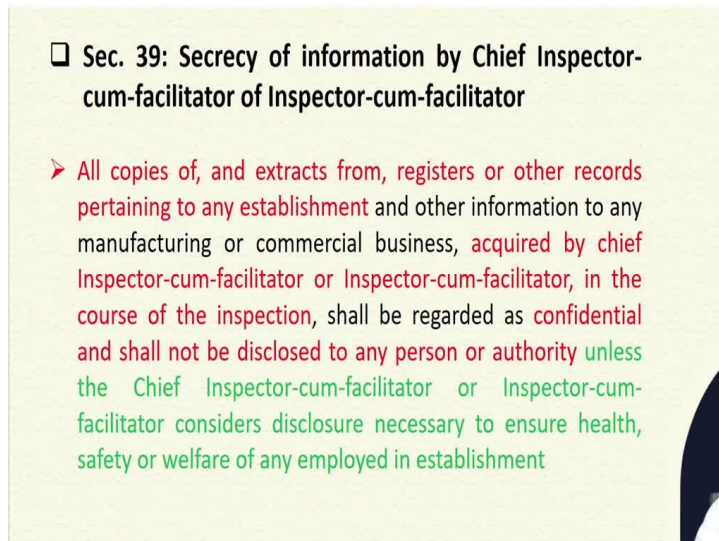
❑ **Special power of Inspector-cum-facilitator in respect of dock work:**

- If it appears to the Inspector-cum-facilitator that the **dock work is carried out in such a condition that it is dangerous to life, safety or health of the workers employed**, he may through writing serve to **the employer, an order to prohibit such dock work until measure have been taken to remove such danger**
- After serving an order, the Inspector-cum-facilitators shall endorse a copy to Chief Inspector-cum-facilitators, who may modify or cancel such order
- Any **person aggrieved by an order**, may **prefer an appeal before Chief Inspector-cum-facilitator, within 15 days** and where **such order made by Chief Inspector-cum-facilitator, appeal shall lie before Central govt**
- After **giving reasonable opportunity**, the appeal shall be disposed within **60 days**

So and also we can see that with regard to dock workers. So there also the chief Inspector cum facilitator has a role to play. So the employer does not prohibit such dock work under the

measures that have been taken to remove such danger. So if any such danger is there, the work is prohibited in mines as well as in dock works. So if any person is aggrieved by this particular order, then he can appeal for the chief Inspector cum facilitator within 15 days of such order.

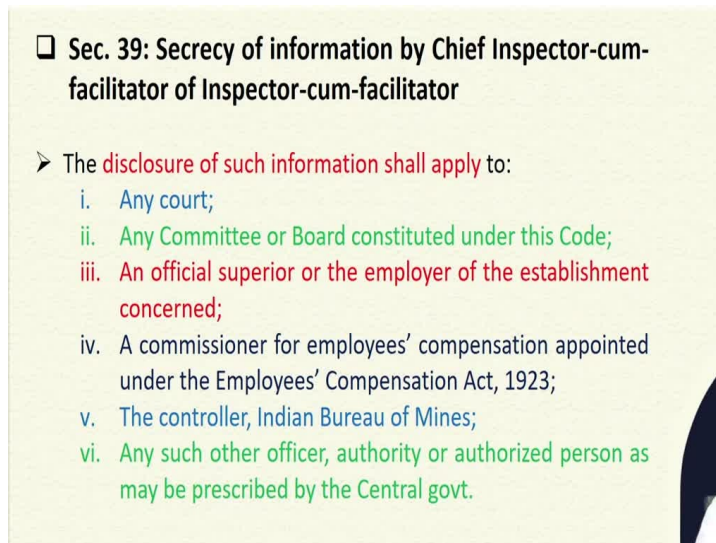
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And also we say that the information received by the Inspector must be kept very secret. So all copies of extracts, registers and other records pertaining to any establishment cannot be transferred to any other establishment, so it implies property is protected there. In any manufacturing or commercial business, you cannot use that particular information.

And also confidential shall be shall not be disclosed which means, this confidential information shall not be disclosed to any person or authority unless the chief Inspector cum facilitator constrains the disclosure to protect the health, safety, or welfare of the employed in a particular establishment.

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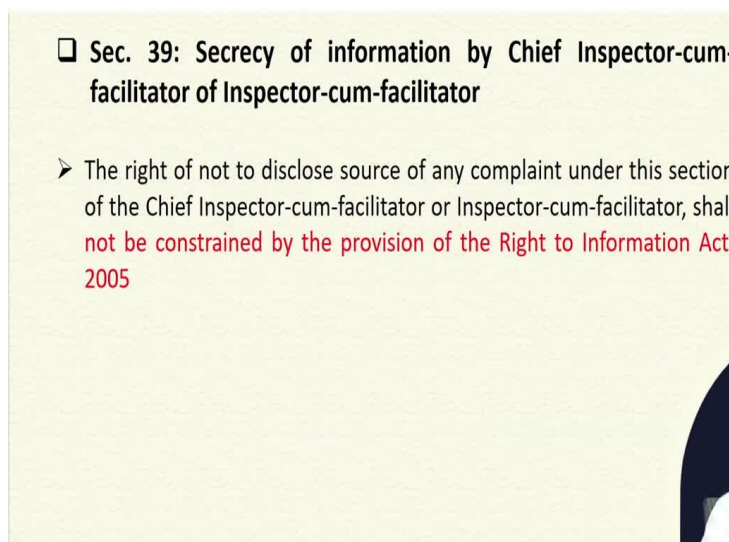
□ **Sec. 39: Secrecy of information by Chief Inspector-cum-facilitator of Inspector-cum-facilitator**

➤ The disclosure of such information shall apply to:

- i. Any court;
- ii. Any Committee or Board constituted under this Code;
- iii. An official superior or the employer of the establishment concerned;
- iv. A commissioner for employees' compensation appointed under the Employees' Compensation Act, 1923;
- v. The controller, Indian Bureau of Mines;
- vi. Any such other officer, authority or authorized person as may be prescribed by the Central govt.

So here the disclosure of the information is not prohibited by any court. An officer superior to the employer of the establishment concerned. A commissioner for employee compensation was appointed under the ESI Act 1923, Employees Compensation Act of 1923. And also the controller Indian Bureau of mines and any other office that means, if some complaint is made, so the documents can be submitted in the case of court or superiors and these particular cases only and otherwise this information will be kept as secret.

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□ **Sec. 39: Secrecy of information by Chief Inspector-cum-facilitator of Inspector-cum-facilitator**

➤ The right of not to disclose source of any complaint under this section of the Chief Inspector-cum-facilitator or Inspector-cum-facilitator, shall not be constrained by the provision of the Right to Information Act 2005

So the right not to disclose the source of any complaint under this section of chief Inspector cum facilitator shall not be constrained by the provisions of the Right to Information Act 2005. So they can find also the obligations under the Right of Information Act.

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❑ **Sec. 40: Facilities to be afforded to Inspector-cum-facilitator**

- Every employer of an establishment afforded the facilities to the Inspector-cum-facilitator.
- Such facilities shall be provided to the Inspector-cum-facilitator by the employer of the establishment, which relates to the reasonable facilities for making any entry inspection, survey, measurement, examination or inquiry under this Code.

And what are the facilities to be afforded to the Inspector cum facilitator? Every employer of an establishment afforded facilities to the Inspector cum facilitator. So say facilities for making any entry in inspection, survey, measurement, examination or inquiry under the seat. So all these are to be done in the case of Inspector cum facilitator.

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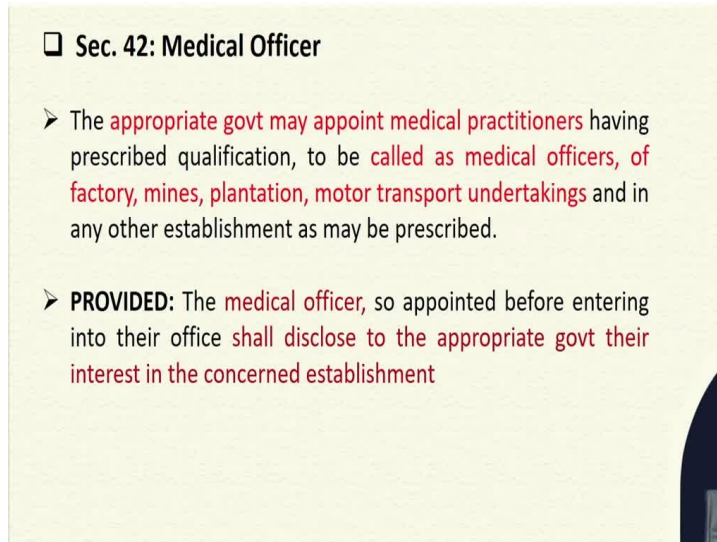
❑ **Sec. 41: Power of special officer to enter, measure, etc. in relation to mine**

- Any person in service of the govt duly authorized in this behalf, by a special order in writing of the Chief Inspector-cum-facilitator or of Inspector-cum-facilitator, for the purpose of surveying, leveling or measuring any mine or any outcome therefrom, after giving not less than 3 days' notice to the manager of such mine, he may survey, level or measure the mine or any part thereof or any output therefrom

So it means that the government has to make a lot of arrangements for the Inspector cum facilitator to function. And also if any person in service of the government duly authorized by the government, special order or inviting from the Chief Inspector of factories, or Inspector of factories, for purpose of the survey, levelling, or measuring any mine or outcome there from

not less than 3 days, not to the manager of such survey, so he may survey or level or measure or mine as part of any of the output.

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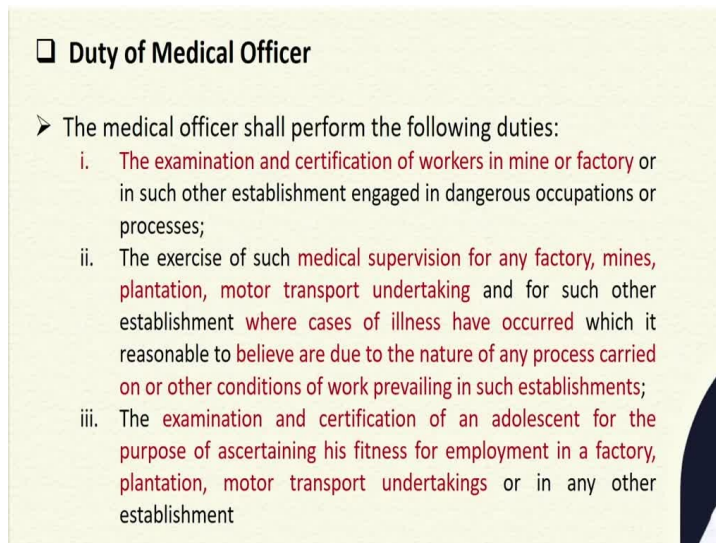


❑ **Sec. 42: Medical Officer**

- The appropriate govt may appoint medical practitioners having prescribed qualification, to be called as medical officers, of factory, mines, plantation, motor transport undertakings and in any other establishment as may be prescribed.
- **PROVIDED:** The medical officer, so appointed before entering into their office shall disclose to the appropriate govt their interest in the concerned establishment

So again, medical officers. So the appropriate government should appoint medical officers not only in factories but also in plantations and also with a particular qualification to be maintained. So they are in factory mines, plantations, motor transport undertaking, etc. So provided the medical officer appointed before entering into their office shall disclose to the appropriate government, their interest in the consent establishment, that also to be disclosed to be made.

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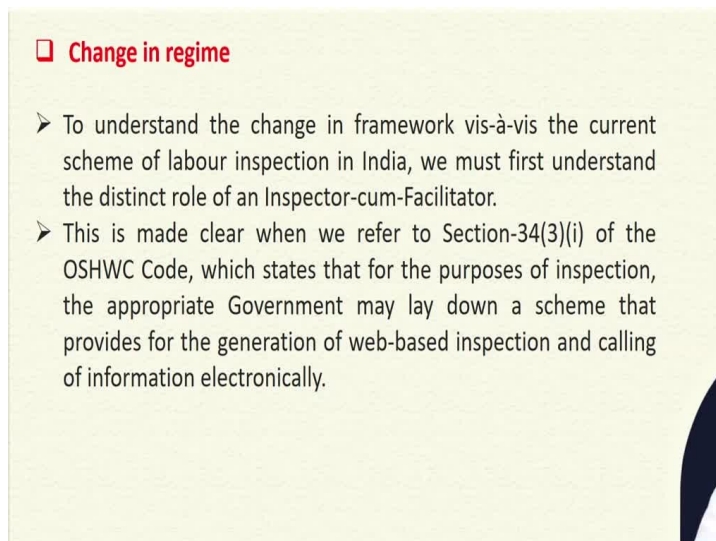


□ Duty of Medical Officer

- The medical officer shall perform the following duties:
 - i. The examination and certification of workers in mine or factory or in such other establishment engaged in dangerous occupations or processes;
 - ii. The exercise of such medical supervision for any factory, mines, plantation, motor transport undertaking and for such other establishment where cases of illness have occurred which it reasonable to believe are due to the nature of any process carried on or other conditions of work prevailing in such establishments;
 - iii. The examination and certification of an adolescent for the purpose of ascertaining his fitness for employment in a factory, plantation, motor transport undertakings or in any other establishment

And the duty of medical officers includes certifying workers, medical examination of workers of the factory, and also we can say that medical supervision of such factories, mines plantations, and motor transport undertakings. And also we can see that examination and certification of an adolescent for the purposes of ascertaining his fitness, the doctor has to give a certificate.

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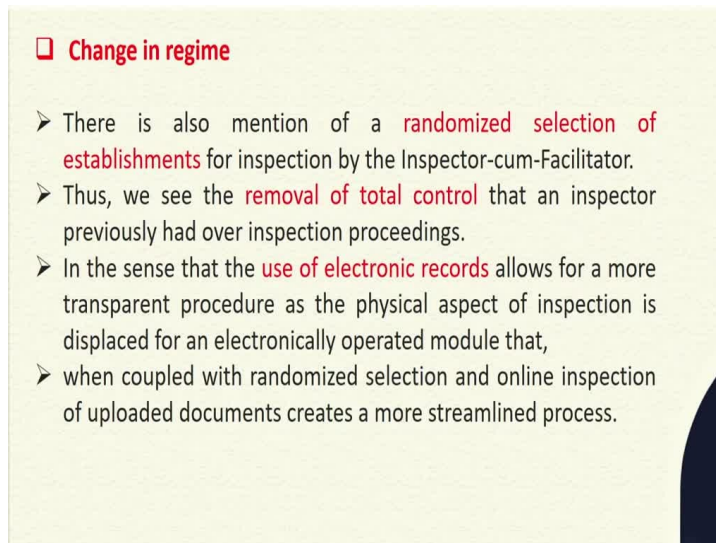


□ Change in regime

- To understand the change in framework vis-à-vis the current scheme of labour inspection in India, we must first understand the distinct role of an Inspector-cum-Facilitator.
- This is made clear when we refer to Section-34(3)(i) of the OSHWC Code, which states that for the purposes of inspection, the appropriate Government may lay down a scheme that provides for the generation of web-based inspection and calling of information electronically.

Then so now, we can clearly see that there is a change in the regime and role of Inspector cum facilitator. So this is clearly made in the Occupational Safety Health and working conditions Code of 2020 and now, it is completely going to be well web-based inspection system calling for information electronically.

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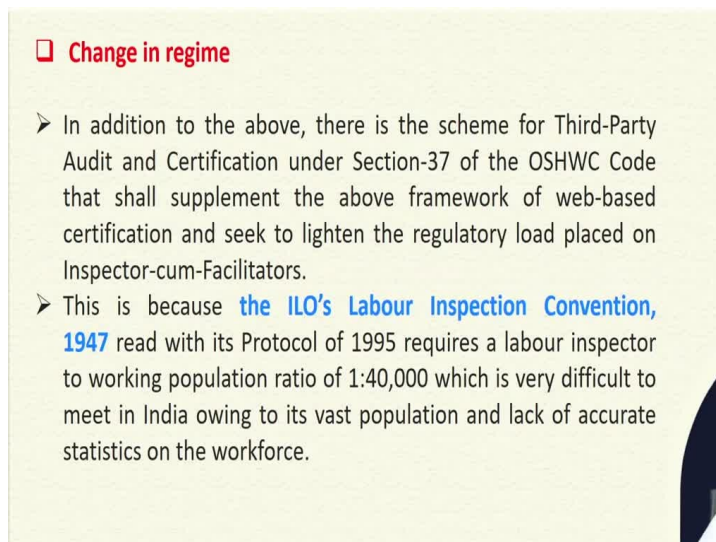
A slide with a light yellow background and a dark blue curved corner on the right. It features a red square icon followed by the text 'Change in regime'. Below this, there are three bullet points, each starting with a right-pointing arrowhead. The text in the bullet points is black, with some words highlighted in red.

❑ **Change in regime**

- There is also mention of a **randomized selection of establishments** for inspection by the Inspector-cum-Facilitator.
- Thus, we see the **removal of total control** that an inspector previously had over inspection proceedings.
- In the sense that the **use of electronic records** allows for a more transparent procedure as the physical aspect of inspection is displaced for an electronically operated module that, when coupled with randomized selection and online inspection of uploaded documents creates a more streamlined process.

And there is a randomized selection of establishments and random inspection is going to be completed online. So electronic reports are called for electronic reports to be verified randomly without disclosing the identity of the inspector, which is going to increase transparency.

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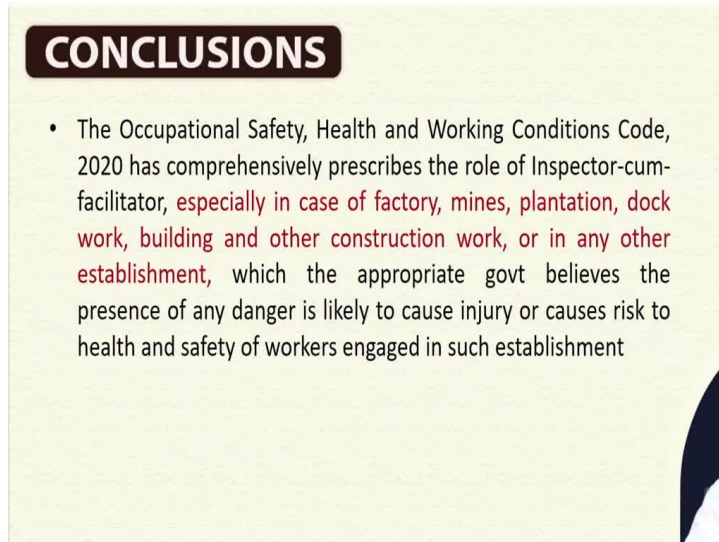
❑ **Change in regime**

- In addition to the above, there is the scheme for Third-Party Audit and Certification under Section-37 of the OSHWC Code that shall supplement the above framework of web-based certification and seek to lighten the regulatory load placed on Inspector-cum-Facilitators.
- This is because **the ILO's Labour Inspection Convention, 1947** read with its Protocol of 1995 requires a labour inspector to working population ratio of 1:40,000 which is very difficult to meet in India owing to its vast population and lack of accurate statistics on the workforce.

And also we can see that the third-party audit. So we already said that third-party audit and certification is a new system introduced into the code and also the ILO is coming out with certain inspections or conventions, relating to this particular thing. So, you can see that inspector, the ratio of inspectors are very less and very difficult to meet, so for many few

lakhs Inspector cum facilitator are there but the working population ratio is 1:40000. So the how many numbers of inspectors we appoint that is a big issue.

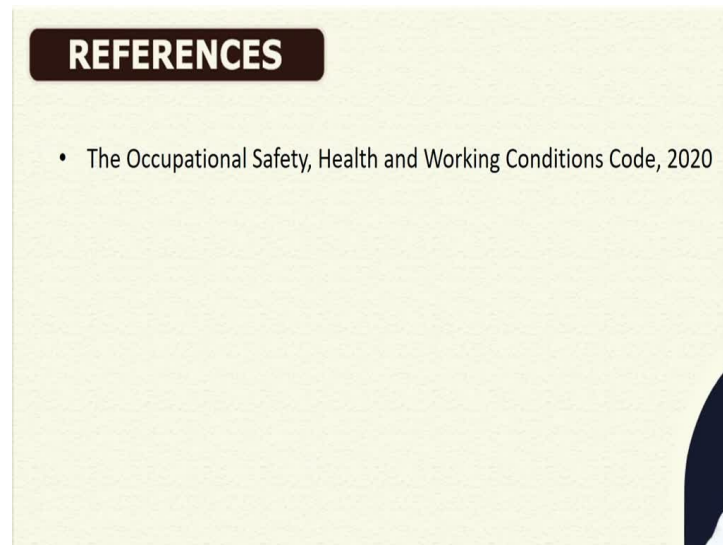
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So in conclusion, we can see that the role of Inspector cum facilitator under the new code 2022 code is absolutely changed. And he has the powers with regard to dock work, plantations, mines, factories, buildings and other construction work, or any other power can be given to these District magistrates or to the Inspector cum facilitators.

So because most of the state governments believe that they are part of the state as public servants, and then the complete provisions are added to the 2020 code as well. Elaborate provisions like audits and new concepts are included in the law provisions as well. So this is going to increase the powers, and the workability and working conditions of the Inspector cum facilitator under the new code.

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We hope that the wide powers which are given to the Inspector cum facilitator and the change in their role going to be successfully worked in the coming days. Thank you.