

Govt mulling to extend security for gig workers

PIONEER NEWS SERVICE ■
NEW DELHI

The Union Labour and Employment move comes close

Months after the National Human Rights Commission (NHRC) issued a notice to the Centre regarding allegations of “anti-labour practices” at an Amazon India warehouse in Manesar, Haryana, Union Labour and Employment Minister Dr Mansukh Mandaviya has announced that the Government is exploring ways to extend social security coverage for those serving in the sector.

Gig workers, who take on short-term or project-based jobs often for multiple clients rather than being employed by a single company, will be registered on the eShram Portal to facilitate the implementation of these social security measures, said the Minister at a review meeting here.

Dr Mandaviya emphasised the development of a comprehensive strategy to ensure these workers receive the social security benefits they are entitled to. The Minister also highlighted that companies employing gig and platform workers will be encouraged to lead this registration effort. An online window will be provided for aggregators to streamline the registration process. He underscored the significance of the Code on Social Security, which marks the first formal recognition of gig and platform workers in India. This step aims to acknowledge and formalise their roles within the economy.



on the heels of the National Human Rights Commission (NHRC) suo moto cognizance taken in June when it launched an investigation into human rights violations of the gig workers at an Amazon warehouse in Haryana, where even basic amenities like restrooms were reportedly missing. The NHRC also demanded answers from the Central Labour Ministry.

Labour associations have accused five warehouses in and around Manesar of violating regulations under the Factories Act, 1948. These cases highlight the broader issue of gig workers’ exploitation by the companies that employ them.

According to NITI Aayog, the number of gig workers could expand to 23.5 million by 2029–30 from the 7.7 million they are at now. The lack of robust legislation addressing new forms of labor, particularly gig and platform work, affects workers, especially women, who often struggle to maintain a living wage and stay in the workforce.

Are lie-detector tests legally valid?

Why has the CBI obtained permission from a Kolkata court to conduct polygraph tests? How are these tests administered? Why have experts and scientists flagged concerns regarding their efficacy? What do judicial precedents say?

EXPLAINER

Aaratrika Bhaumik

The story so far:

In August 26, the Central Bureau of Investigation (CBI) conducted a second round of polygraph tests on seven people, in connection with the rape and murder of a resident doctor at the R.G. Kar Medical College and Hospital in Kolkata. The tests were conducted on the former principal of the medical college Sandip Kumar Ghosh, four doctors who had dinner with the victim hours before the crime, civic police volunteer Sanjay Roy who is the main accused, and another police volunteer believed to be close to him. Mr. Ghosh reportedly provided inconsistent responses during questioning over the last 10 days, leading authorities to administer an additional round of polygraph tests. The central agency, which has been investigating the crime since August 13 following a Calcutta High Court order, had obtained permission from a Kolkata court to conduct the polygraph tests. The Court also remanded the main accused to judicial custody for 14 days.

What are deception detection tests? Deception detection tests (DDTs) are scientific procedures employed to detect probable deception during interrogation. These tests include narco-analysis, polygraph tests, and brain mapping. A polygraph test operates on the presumption that specific physiological responses are triggered when a person is lying. Typically, the test is administered by attaching instruments like cardio-cuffs or sensitive electrodes to the suspect to measure variables such as blood pressure, galvanic skin response (a proxy for sweat), breathing and pulse rate. As questions are posed, each physiological response is assigned a numerical value to determine whether the individual is telling the truth or being deceptive.

In contrast, narco-analysis involves the injection of a drug called sodium pentothal into the accused, inducing a hypnotic or sedated state. The assumption is that a subject in such a state is less inhibited and is more likely to divulge information. Because the drug is thought to weaken the subject's resolve to lie, it is often referred to as a "truth serum." The third method, brain mapping, measures a subject's neural activity – specifically brainwaves – using electrodes attached to the face and neck. It operates on the principle that the brain generates distinctive brainwaves when exposed to familiar stimuli, such as an image or a sound.

However, the efficacy of such tests remains contentious in the medical field. In a 2010 paper published in the *Indian Journal of Medical Research*, psychiatric expert Suresh Bada Math observed that lie-detection techniques have "faced a number of criticisms," and their effectiveness in revealing "concealed knowledge in applied real-world settings" remains uncertain. He also questioned the reliability of polygraph tests, pointing out that the test's underlying principle is flawed – parameters such as heart rate and blood pressure, which indicate a state of hyper-arousal, have not been proven to be uniquely indicative of lying. Similarly, a 2019 study conducted in the U.S. flagged high false positive rates and noted that individuals can train to beat a polygraph.

What was the norm before 2010? Prior to 2010, Indian courts were strongly in favour of these tests, even deeming



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consent from the accused as irrelevant before administering them. In *Rojo George vs. Deputy Superintendent of Police* (2006), the Kerala High Court noted that the techniques used for the commission of crimes have become "very sophisticated and modern," making the use of these scientific tests essential for effective investigations. "When such tests are conducted under strict supervision of the expert, it cannot be said that there is any violation of the fundamental rights guaranteed to a citizen of India," it underscored. Similarly, in *Dimesh Dalmia vs. State* (2006), the Madras High Court observed that reliance on these tests by agencies did not constitute "testimonial compulsion." The Court also pitched these "scientific methods of investigation" as a safer alternative to custodial violence often used to extract information.

In 2008, the Delhi High Court in *Sh. Shailender Sharma vs. State & Another*, asserted that in light of rising crimes against society, it is necessary to keep in mind the "need of a thorough and proper investigation as against individual rights while ensuring that constitutional rights are not infringed." Adding that narco-analysis tests "do not suffer from any constitutional infirmity" and are a "step in aid of investigation," the Court allowed the administration of the test.

What happened in 2010? In a watershed moment, the Supreme Court in 2010 in the case of *Selvi vs. State of Karnataka* ruled that no lie detector tests should be administered "except on

the basis of consent of the accused" in accordance with the fundamental right against self-incrimination as enshrined under Article 20(3) of the Constitution. A Bench comprising former Chief Justice of India (CJI) K.G. Balakrishnan and Justices R.V. Raveendran and J.M. Panchal further elucidated that a person's right to make a statement or remain silent is integral to their right to privacy. Thus, they underscored, compelling an individual to make a statement would also constitute a violation of Article 21 of the Constitution.

The Court also noted that little empirical evidence is present to bolster the argument that these tests provide reliable leads for investigators. It accordingly cautioned that the results of these tests cannot be regarded as "confessions." However, if any information or material is subsequently discovered "with the help of voluntarily administered test results," such evidence can be admitted in court. For instance, if an accused discloses the location of a murder weapon during the test, and the investigating agency later finds the weapon at that location, the accused's statement itself will not be admitted as evidence, but the weapon will be.

The Court further mandated that individuals volunteering for such tests must have access to a lawyer and be apprised of the physical, emotional, and legal implications of undergoing the test. Additionally, it required that the subject's consent be formally recorded before a judicial magistrate and that the guidelines set out by the National Human Rights

Commission in 2000 for administering these tests be strictly adhered to.

What next?

Despite the top Court's cautionary stance, the administration of DDTs continue to be prevalent in India in sharp contrast to their dwindling appeal worldwide. In the recent past, such tests have been employed in several high-profile cases including the 2020 gang rape of a Dalit woman in Hathras, the 2012 disappearance of Sheena Bora, and the 2022 Shraddha Walker murder case.

In the book, *The Truth Machines: Policing, Violence, and Scientific Interrogations in India*, Jinee Lokaneeta underscores the highly invasive nature of polygraphs and other allied tests, questioning whether informed and free consent can ever be obtained in police custody. She also documents instances, such as in the case of the exonerates in the 2007 Mecca Masjid blasts case and the accused in the 2006 Mumbai blasts case, where narco-analysis was forcibly administered, accompanied by physical abuse, to extract false confessions.

Echoing similar concerns, senior advocate Rebecca John told *The Caravan* that such lie-detector tests "masquerade" as scientific evaluations. She also highlighted how the prosecution often uses a person's unwillingness to undergo these tests to cast a judgment on their character before the court. "The fact that you have used your constitutional right is used against you to suggest mala fide conduct," she said.

THE GIST

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