

75% jobs for locals with the new Haryana Law

March 18, 2021

Haryana Governor S N Arya recently gave his assent to the Haryana State Employment of Local Candidates Act, 2021, passed by the Vidhan Sabha clearing the way for a 75 per cent quota in the private sector for job seekers from Haryana. The Act will remain in force across the state for a period of at least 10 years. This law has triggered a controversy. The decision fulfils a key election promise of the ruling coalition, with Haryana joining a growing group of states that reserve jobs for local candidates.

In news: Law for 75% quota for Haryana locals in pvt jobs gets Gov's nod

Placing it in syllabus: Society

Dimensions

- Provisions
- Importance
- Drawbacks and criticisms
- Way Forward

Content:

Provisions:

The Haryana State Employment of Local Candidates Act, 2021 has the following provisions:

- **Applicability:**
 - It will apply to all the companies, societies, trusts, limited liability partnership firms, partnership firms
 - any person employing 10 or more persons and an entity as may be notified by the government from

time to time.

- The new law would be applicable only on new openings and would not affect the already working employees.
- It does not apply to the Central or state government, or any organisation owned by them.

▪ **Domicile Requirement:**

- It provides for reservation for a “local candidate”, which has been defined under the law as someone “domiciled in the State of Haryana”.

▪ **Extent of Reservation:**

- every employer is required to employ 75% “local candidates” for posts where the gross monthly salary is not more than ₹50,000.
- It adds that 10% of the recruitment by a company would have to be from the district in which it was located while the rest may cover other districts.

▪ **Compulsory registration:**

- It is also stipulated that within three months of the Bill coming into effect, the employers in the applicable establishments must register employees with a monthly salary below Rs. 50,000 on a designated portal.
- An employer cannot employ a new person till such registration is complete.

▪ **Penalties for compliance failures:**

- It specifies penalties for various offences. For example, failure to provide 75% of new employment to local candidates in Haryana will attract a fine between Rs 50,000 and two lakh rupees, with an additional penalty of Rs 1,000 for each day till the contravention continues.

▪ **Limitation period for cognizance of offences:**

- Cognizance of an offence can be taken by a court only within a period of 6 (six) months from the date on which the alleged commission of the offence came to the knowledge of the Designated

Officer or the Authorised Officer.

Importance:

- The new law fulfils a key election promise of the ruling coalition, with Haryana joining a growing group of states that reserve jobs for local candidates.
- The Haryana government wants to create reservation in the private sector by introducing policy of “son of soils”
- the Bill lays down that “giving preference to local candidates in low-paid jobs is socially, economically and environmentally desirable and any such preference would be in the interests of the general public.”
- The government has contended that the bill will provide tremendous benefits to the private employers directly or indirectly through qualified and trained local workforce.
- Availability of suitable workforce locally would enhance the efficiency of industry as the workforce is one of the major components for the development of any industrial organisation

Details of High Court Petition:

- The petition has been filed at the Punjab and Haryana high court challenging the law.
- The petition has sought directions to quash the new law notified by the Haryana government on March 2 for being void/unconstitutional and sheer abuse of process of law.
- It has also been submitted that the law is an unconstitutional act and cannot stand the legal scrutiny as it violates the principles to meet the requirement under article 14, 15, 16 (2) and 16 (3), 19 (1)(g), 21 of the constitution.

Drawbacks and criticisms

Industry lobbies, such as FICCI and CII, have criticised the Haryana government over this new law for the following reasons:

- ***Violates Fundamental Rights:*** Law violates Article 14 of the constitution due to its arbitrariness. Similarly, Articles 15(1) and 15(2) also prohibit the state from discriminating against any citizen on grounds of religion, race, caste, sex, place of birth. It violates the equality that the constitution grants. When all citizens are equal, governments should not exclude people in this way.
- ***Undermines Meritocracy:*** The law is not only against constitutional provisions but also sovereignty and basic principle of meritocracy that acts as the foundation for businesses to grow and remain competitive
- ***Internal Barrier in the Federal Structure:*** The state of Haryana is trying to create an internal barrier on the federal structure created in our country by the Constitution without verifying the facts of the educational structures and geographical imbalance in the state
- ***Detrimental for the Private Sector:*** The act is an attempt to introduce a domicile methodology to get a job in the private sector will create a chaos in the current industrial employment structure
- ***Breeds Unfair Competition:*** It has also been argued that the act notified by the Haryana government is not but an act of unfair competition between deserving employees and local residents of Haryana claiming to have a right as an employee on the basis of local residence.
- ***Relocation of Industries:*** Companies that are looking for expansion of their business may approach neighboring states for establishing offices to avoid this law. Indirectly impacting the real estate sector also.

- ***Sets Wrong precedent***: The law would set a wrong precedent and may prompt other states too to stop hiring youth from Haryana.

Possible Challenges for the Industry:

- ***Unclear on type of employment reserved***- The law is silent & no explanation has been provided on the type of employment it wants to reserve for local candidates.
- ***Operational issues in Company's talent acquisition*** - there will be a lot of operational issues in recruiting the candidate where the Companies focus on hiring on tech skills.
- ***Long Procedure for claiming exemption***- Where adequate number of the local candidates of the desired skill, qualifications or proficiency are not available, Companies will have to go through a long procedure of making application and subsequent inquiry by the designated officer.
- ***Added Expenses***: Training the local candidate to achieve the desired skill the company increases the additional expense for training local candidates

Additional compliance and fear of contravention – The law places much stress on quarterly reporting of recruiting 75% of local domiciled candidates and in case of contravention of any provision hefty penalties will be imposed.

Way Forward

- The law needs to be repealed in the present form and structure.
- Instead, the purpose of giving jobs to locals can be achieved in case of new industrial units being set up and offering attractive incentives to the unit in lieu of providing reservation
- Investors and entrepreneurs need to source the best human resources available in the country to be

competitive and successful.

- The industry should be consulted to understand the overall impact on the State's economy and employment arising out of the job reservation law.
- CII has in the representation said that there needs to be a procedure to employ persons from outside in instances wherein the required talent is not available locally.
- To force them in such a regressive straightjacket will force them to look beyond Haryana and this will ultimately hurt the interests of the State

Mould your thought: Discriminatory nativist laws will not make a particular state prosperous and will only serve in sending a negative signal to competent people from outside the state. Evaluate this statement in the context of Haryana State Employment of Local Candidates Act, 2021.

Approach to the answer:

- Introduction
- Discuss the provisions of the Act
- Discuss the rationale of the government
- Discuss the criticisms of the Act
- Conclusion