

## OVERVIEW OF THE HARYANA STATE EMPLOYMENT OF LOCAL CANDIDATES ACT, 2020

### 1. INTRODUCTION

The Haryana State Employment of Local Candidates Act, 2020 (“Act”) has been a regular subject of discussion in recent times. While the Government of Haryana has notified the Act on November 06, 2021, the law will come into effect from January 15, 2022.

The Act is applicable to all private companies, societies, partnership firms, trusts, any person employing ten or more persons in Haryana, or any other entity as may be notified by the Government. The Act requires private sector employers to reserve 75% of job posts that offer a salary of less than INR 30,000 for individuals who are domiciled in Haryana. The Government of Haryana has also made the residency (domicile) requirement to 5 years for a person to obtain a residency certificate.

The Act enables the Haryana Government to focus on securing employment opportunities for domiciled individuals. However, domiciled linked reservations is not a new concept since other States have also introduced similar laws. For instance, the Government of Andhra Pradesh notified the Andhra Pradesh Employment of Local Candidates in the Industries / Factories Act, 2019 which provided for reservation of 75% of posts in existing and upcoming factories, industries, joint ventures, and public-private partnership projects for local candidates.

### 2. HIGHLIGHTS

The Act has introduced the following key provisions:

- a) Every employer is required to register employees receiving gross monthly salary or wages of less than INR 30,000 on the designated portal i.e., the Haryana Udhyam Memorandum portal within 3 months of the commencement of the Act. Further, no new employees shall be engaged in such posts by any employer until such registration is completed.
- b) Every employer is required to recruit 75% of local candidates (i.e., individuals domiciled in the State of Haryana) with respect to such posts where the gross monthly salary or wages is less than INR 30,000. The local candidates can be from any district in Haryana. However, an employer can restrict the recruitment of local candidates from a particular district to 10% of the total local candidates.
- c) No local candidate can avail benefits under the Act until she/he is registered on the designated portal.
- d) An employer may claim exemption from the Act by applying to the Designated Officer under the Act, if an adequate number of local candidates of the desired skill, qualification or proficiency are not available. The Designated Officer may, pursuant to an inquiry, either accept or reject the employer’s application for exemption or direct the employer to train local candidates to achieve the desired skill, qualification, or proficiency.

- e) Every employer is required to furnish a quarterly report of the local candidates employed and appointed during that quarter on the designated portal.
- f) Failure to register employment posts on the designated portal can attract a penalty ranging from INR 25,000 to INR 1,00,0000, and a further penalty of INR 500 per day in case of a continuing offence after conviction. Failure to recruit local candidates as per the Act can attract a penalty ranging from INR 50,000 to INR 2,00,000, and a further penalty of INR 1000 per day in case of a continuing offence after conviction. Further, the general penalty for contravention of the provisions of the Act or the rules made thereunder ranges from INR 10,000 to INR 50,000, and a further penalty of INR 100 per day in case of a continuing offence after conviction.
- g) The Act will operate for 10 years from its effective date.

### 3. **INDUSLAW VIEW**

While the objective of the Act is to secure employment opportunities for local youth in the private sector within the State, it is being perceived as a restrictive law by various sections of media and employers. Some of the concerns that are being discussed are as follows:

- a) The Act is viewed by many as violative of Article 14 (i.e., right of every citizen to be treated equally irrespective of their place of birth), Article 16(2) (i.e., restriction on discrimination against citizens on the grounds of place of birth or residence) and Article 19(1)(g) (i.e., right to practice any profession, carry on any occupation, trade, or business) of the Constitution. In fact, a writ petition challenging the Act on these grounds was filed by a Haryana based manufacturing firm before the High Court of Punjab and Haryana in March 2021 which was dismissed as the Act was yet to come into force at that time. It would be unsurprising if similar petitions are filed now.
- b) The Act allows exemptions from recruiting local candidates. However, in such cases, the Designated Officer can direct employers to train candidates who are unsuitable for available posts. This may impose an additional onerous burden on employers leading to a financial outlay.
- c) During a recent press conference held by the Deputy Chief Minister of Haryana, it was communicated that IT companies and start-ups that were set up after the commencement of the Act would be exempted from complying with it for a period of 2 years which may provide some respite. However, a written clarification / notification in this respect is awaited.
- d) The Act does not provide for the definition of the term 'salary or wage'. Since the premise of the Act is based on the domicile of an individual and the salary or wage earned by such individual, it is imperative for the Act or the rules framed thereunder to provide for an explanation.

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