

HARYANA GOVERNMENT NOTIFIES LAW ENFORCING 75% RESERVATION

1. INTRODUCTION

The Haryana State Employment of Local Candidates Act, 2020 (the “**Act**”) and the Haryana State Employment of Local Candidates Rules, 2021 (the “**Rules**”) came into effect on January 15, 2022, thereby enforcing a 75% reservation requirement in employment for local candidates (i.e., candidates domiciled in the State of Haryana) earning INR 30,000 or less.

The Act has been the subject of significant debate and opposition from local industrial associations on grounds of the Act being in violation of the constitutional rights of workers. To this end, several industrial associations and trade unions have filed petitions before the Punjab and Haryana High Court (“**High Court**”), challenging the validity of the law. One such petition was filed by the Faridabad Industries Association, which is pending before the High Court where the next hearing is on February 2, 2022.

The key provisions of the Act have already been discussed in our previous Infolex article which can be accessed at <https://bit.ly/3nq7Uog>. Recently, on January 17, 2022, the Haryana Labour Department has further released an order exempting certain categories of employers from the ambit of the Act. We have discussed these exemptions below.

2. ANALYSIS

The following categories of employer are exempted from the purview of the Act:

- New startups and new Information Technology (IT) / Information Technology Enabled Services (ITES) of new employers for a period of 2 (two) years from the date of commencement of work or business or manufacturing process. The term ‘new startups and new Information Technology / Information Technology Enabled Services’ refers to employers who have established or have commenced operation within a period of 2 (two) years, after the commencement of the Act.
- Short term employment, the total duration of which is less than 45 (forty five) days.
- Vacancies under any employer that primarily engages in certain agricultural activities, such as growing/harvesting of field crops, fruits, nuts, seeds, vegetables, tea, coffee or raising animals, growing and harvesting of fish or other animals from a farm, ranch, or their natural habitats but does not include any agricultural allied activity which involve therein manufacturing, trading, processing of agricultural products or produce or covered under the definition of establishment, as defined under the Punjab Shops and Commercial Establishments Act, 1958 (as applicable in Haryana) or as defined under the Factories Act, 1948.

- Vacancies under any employer for domestic work or services in residential homes.
- Vacancies which are being filled up through promotion/transfer/absorption of surplus staff of any unit of the same employer in Haryana.

3. **INDUSLAW VIEW**

The enactment of the Act has certainly been the subject of controversy and debate. Since several petitions challenging the validity of the Act are pending before the High Court, and in light of the pushback received by the government from local industrial associations and trade unions, it remains to be seen whether the Haryana government will reconsider the concerns and submissions of the industries and endeavour to reach a middle ground. There is also a school of thought that espouses the position that the government can consider implementing the structure which is based on parameters other than the employee's salary. For instance, conditions based on the skill set of the worker (i.e., categorising workers as skilled, semi-skilled, unskilled etc.), as opposed to the worker's salary, can be used as a basis for enforcing the 75% employment reservation. Only time will tell if this step will aid in improving the efficacy of the Act and alleviate the concerns of the industrial associations and trade unions. Nevertheless, the entire country is watching all developments connected to the Act with keen interest.

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