
INTERNATIONAL JOURNAL OF ADVANCED LEGAL RESEARCH

**LEGAL VALIDITY AND ECONOMIC ANALYSIS OF THE PRIVATE
RESERVATION ACT OF HARYANA**

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I. ABSTRACT

Haryana State Employment of Local Candidates Act, 2020 received a green light by the governor on February, 2021. It came into effect on 15th January, 2022 but was this law legally valid? The present research paper attempts to answer such discrepancies and tries to analyse the impact of the law at hand on the economy of Haryana. The author has tried to put clearly the grounds on which the law fails to stand legally valid and the grey areas of law which needs to be answered by the Judiciary. The disputed law is in contravention with various articles of the Indian Constitution and some where the legal question in force is extremely delicate. The paper has also questioned the authority and jurisdiction of Haryana Legislative Assembly in passing such law. Along, there is an attempt to draw a clear line between the powers to reserve public and private sector jobs. This paper has grown and developed on the real time basis with the law as it has progressed. Moving forward, the paper has successfully built a bridge between the introduction of the law and impact of the same on the economy. One can smell the disappointment and despair in the air, when the paper furthers. With each step ahead, the authors have presented various arguments backed by reliable government sources and surveys. The economic analysis of the aforementioned law displays the challenges that the economy will be faced with once this new law comes into picture. Due to shortage of appropriately skilled manpower and unavailability of local resources, effective implementation of the act is next to impossible. The act has very high chances of pushing potential investors and existing industries out of the state. To them, Greater Noida will be the next best alternative. We can hear the views of many industrialists and managers expressing their concern and lamenting in the paper. The flight of capital from Gurgaon, Faridabad and other districts of Haryana to Greater Noida, Pune etc. will cost Haryana a fortune. It will severely affect the 'ease of doing business index of the state and the nation. Private reservation in any state is a boon. It jeopardises the economy of the

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nation along with the state. Private sector reservations are never a solution. The government should encourage job creation to resolve the problem of unemployment.

II. INTRODUCTION

The Haryana State Employment of Local Candidates Act, 2020 received the assent of the former Governor of Haryana, Satyadev Narayan Arya on 26th of February, 2021. The Act makes it mandatory to provide seventy-five percent employment of local candidates by private employers in the state. It will cease to have effect on the expiry of ten years from the date of commencement i.e. 15th January, 2022². The Act applies to all the Companies, Societies, Trusts, Limited Liability Partnership firms, Partnership firms and any person employing ten or more persons and an entity³.

Section 3 of the Act fixes the responsibility of registering the eligible employees on the shoulders of the employer within three months of coming into force of this act. The designated portal for the same has been notified by the government as <https://local.hrylabour.gov.in/>. Eligible employees referred to above should be local residents of Haryana working in private sector and earning not more than thirty thousand rupees monthly⁴.

Section 4 of the present Act talks about the recruitment of new employees by the employer. It makes it very clear that only local candidates registered on the designated portal can avail the benefit under this act.

The act also empowers the Designated Officers to take decisions he deems fit in case of any claim for exemption⁵ filed by the employer. It also makes it necessary for the employer to submit a quarterly report which will be examined by the Authorised Officer⁶ and this officer has been awarded with powers to call for any documents required for the assessment of the report, to pass any order that he deems fit for compliance with this Act and to enter any place at any reasonable time for examination purposes.

The initial notification also provides arrangements for monetary penalties awarded in case of contravention by the employer of the provisions of this Act. In case of failure of register an

² Notification by Government of Haryana on 6th November, 2021.

³ The Haryana State Employment of Local Candidates Act, 2020 § 2 (e), No.3, Acts of the Legislature of the State of Haryana, 2020 (India).

⁴ The Haryana State Employment of Local Candidates Act 2020, § 2 (g), No.3, Acts of the Legislature of the State of Haryana, 2020 (India).

⁵ The Haryana State Employment of Local Candidates Act, 2020, § 5, No.3, Acts of the Legislature of the State of Haryana, 2020 (India).

⁶ The Haryana State Employment of Local Candidates Act, 2020, § 2 (b), No.3, Acts of the Legislature of the State of Haryana, 2020 (India).

employee with the given time period on the designated portal, the employer shall pay a fine of twenty five thousand rupees, which may extend up to one lac rupees with an additional penalty of five hundred rupees per day in case of continuing offence after conviction.

Adding to the list, in case where an employer fails to recruit local candidates in the manner provided in the act, he shall be awarded with a fine of rupees fifty thousand which may extend to two lac rupees along with an additional penalty of thousand rupees per day in case of continuance in the offence after conviction.

In case of an offence committed by a company, every person concerned with management including director, manager, secretary, agent or any other officer shall be deemed to be guilty of such offence unless and until the person proves the absence of his/her knowledge or consent in committing of the offence.

TIMELINE

On March 2nd, 2021, the Law and Legislative Department of Government of Haryana released a notification titled as 'Haryana Act No. 3 of 2021: The Haryana State Employment Of Local Candidates Act, 2020'. All the laws related to the Act were thereby laid in the same.

On 6th November, 2021, a follow up notification was released amending the section 3 of the previous notification. It has lowered down the bracket from fifty thousand rupees to thirty thousand rupees as gross monthly salary or wages for registration. The date of commencement of this Act was declared i.e., 15th January, 2022.

Further on 24th December, 2021, section 4 of the Haryana State Employment of Local Candidates Act, 2020 was edited and a change was made in the gross monthly salary from fifty thousand rupees to thirty thousand rupees for the recruitment of local candidates by every employer.

Latest notification dated 13th January, 2022 specified the <https://local.hrylabour.gov.in/> portal as the "designated portal".

In February, 2022 the Faridabad Industries Association moved the Punjab & Haryana High Court against the present law at hand.

On 3rd February, 2022 The High Court placed a stay on the Act and put a halt in its implementation. Following this, Haryana Government approached the Supreme Court to dictate the final decision on the matter.

17th February 2022, the apex court of India set aside and lifted the stay on the Act. It directed the High Court to re-hear the matter and provide sufficient reasoning for staying the legislation.

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Till then, the government has been ordered not to take any coercive steps against the employers.

III. LEGAL ANALYSIS

Every law when introduced needs to pass the test of legal validity, its provisions should not violate any mandate of the Indian Constitution, laws made by parliament, or any precedent of the Supreme court. Article 13 of Indian Constitution clearly states that “All laws in force in the territory of India immediately before the commencement of this Constitution, in so far as they are inconsistent with the provisions of this Part, shall, to the extent of such inconsistency, be void.”⁷ Therefore every law should meet the requirement of Article 13 and should be consistent with the fundamental rights. It’s the duty of the lawmaker to keep in mind that the law under construction does not stand in contravention with the law of the land, the Indian Constitution. Also, one should consider whether the law making body has the authority to make such law or not. The division of powers among the Central government, State government and the Local government ensures no overlapping and clarity in decision making. Likewise, each organ of the government i.e., Legislature, Executive and the Judiciary should stay within their jurisdiction to keep the ‘check and balance’ system intact. This ensures effective and efficient working of the government.

In this section we will conduct detailed legal analysis of the Haryana State Employment of Local Candidates Act, 2020.

WAS HARYANA LEGISLATIVE ASSEMBLY EMPOWERED TO PASS A LAW ON THE SUBJECT OF DOMICILE RESERVATION IN EMPLOYMENT?

The first question which arises when we start to analyse the legal validity of the Haryana State Employment for Local Candidates Act, 2020 is whether the government of Haryana was authorised to pass the law to give domicile reservation to its local candidates in the first place? Article 15 states that “*The State shall not discriminate against any citizen on grounds only of religion, race, caste, sex, place of birth or any of them.*”⁸ This prohibits any discrimination on the basis of place of birth. Article 16 (3)⁹ empowers only the Parliament of India to grant reservation in the matter of appointment of employees on the basis of residence, allowing domicile reservation in employment. The Constitution of India through the means of aforementioned articles gives the powers to allow such reservations to the Parliament and not to the State Assemblies.

⁷ India Const. art. 13.

⁸ India Const. art. 15.

⁹ India Const. art. 16, cl. 3.

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Therefore, the Government of Haryana is not empowered and way out of their jurisdiction to make laws on domicile reservation in employment. The passing of this act by the Legislative Assembly of Haryana was a violation of the Article 16 (3) of the Constitution of India and hence, not valid.

IMPOSING RESERVATION ON PRIVATE SECTOR: LEGALLY VALID?

Reservation in India is not a new concept, it is a concept as old as our Constitution. Firstly, Article 14 clearly abolishes any discrimination by law on any basis. It states- *“The State shall not deny to any person equality before the law or the equal protection of the laws within the territory of India.”*¹⁰ But to provide reservation to outcasted and unrepresented classes, some exceptions are introduced in Article 15 and Article 16 of the Indian Constitution. Article 16 deals with reservation in employment on the basis of gender, caste, and economically weaker section. Article 16 (1)¹¹ states- *“Equality of opportunity in matters of public employment.—(1) There shall be equality of opportunity for all citizens in matters relating to employment or appointment to any office under the State.”* It can be clearly observed that this article deals only with “Public Employment” or ‘appointment to any office under the state’. It does not give any scope to impose reservation in Private Employment. The only reservation in private sector which is allowed in the Constitution is defined under Article 15 (5)¹² which allows reservation for ‘socially and educationally backward classes of citizens or for the Scheduled Castes or the Scheduled Tribes’ in educational institutions including private institutions. This clause deals with admission in private educational institutions and not private sector employment. Therefore, no provision in Constitution of India provides for reservation in Private Sector Employment and doing the same is a violation of the Constitution. On the basis of the above mentioned grounds, the present law at hand is invalid.

DOES THE LAW VIOLATE THE BASIC FUNDAMENTAL RIGHTS OF A CITIZEN?

Finally, we analyse the impacts of this type of on the rights given to the citizens by the Indian Constitution. The key issue here is whether Article 16(2) and 19(1)(g) are being violated because of the green signal given to reservation in private sector on domicile basis. Article 16(2) deals with “restriction on discrimination against citizens on the grounds of place of birth or residence.”¹³ The contention that giving preference to the domicile citizens of Haryana just on the basis of place of residence or birth is a disappointment as the said provision of the

¹⁰ India Const. Art. 14.

¹¹ India Const. Art. 16, cl. 1.

¹² India Const. Art. 15, cl. 5.

¹³ India Const. Art. 16, cl. 2.

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Constitution is being compromised. When Article 16(2) is violated, the rights of all those migrants that come to the state to work in Haryana are jeopardized and this cannot be ignored. Secondly, this act is a threat to the fundamental right of a citizen to practice any profession, carry on any occupation, trade, or business conferred by Article 19(1)(g).¹⁴ When there is a restriction being put on private sector employers to recruit 75 percent local candidates, one can undoubtedly consider this as an unreasonable restriction being put on the firms on their right to practice any trade freely. The debate that whether this action of government qualifies as a reasonable restriction or not is subject of dispute. The only authority that can discuss this appropriately is the Judiciary. The current stay by the Supreme Court of India is a good news for the legal fraternity.

DOES IT VIOLATE THE PROVISION OF 50% RESERVATION CAP?

The next legal issue that needs to be looked upon is whether the 75% reservation given to domicile of Haryana violates the provision of maximum 50% reservation set by Supreme Court in the case of *Indra Sawhney and Others v. Union of India and Others*. The Supreme Court in this case was dealing with a lot of issues related to reservation and one of the main focus point was about whether there should be any limit on the reservation provided under Article 16 (4) which deals with reservation for backward classes of citizens.¹⁵ The Supreme Court dealing with this issue dictated the ruling “*The reservations contemplated in clause (4) of Article 16 should not exceed 50%. While 50% shall be the rule, it is necessary not to put out of consideration certain extraordinary situations inherent in the great diversity of this country and the people.*”¹⁶ The Supreme Court here specified two things. First, reservation provided under Article 16 (4) cannot be more than 50% and no government should breach this clause. Second, the set clause can be breached only under extraordinary situations. This is a very interesting question that lies before the Judiciary, ‘whether the situation at hand qualifies as an extraordinary one or not?’ Also, we can clearly observe that Article 16 only deals with Public Employment,¹⁷ therefore, technically the provision of *Indra Sawhney Case* should only be applied in matters related public employment because it puts a 50 % limit only on reservation given under Article 16 (4), but now, the responsibility is on the shoulders of the Supreme Court to decide whether to consider reservation in private sector to fall under the ambit of *Indra Sawhney* ruling or not?

¹⁴ India Const. Art. 19, cl 2(g).

¹⁵ India Const. Art. 16, cl. 4.

¹⁶ *Indra Sawhney and Others v. Union of India and Others*, (1992) 3 SCC 771.

¹⁷ India Const. Art. 16.

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When we consider recent actions taken by the Supreme Court in matters related to the breach of Indra Sawhney Case, we have come to a recent judgement of the Supreme Court in case of Dr. Jaishri Laxmanrao Patil V. The Chief Minister & Others. The case was related to providing more than 50% reservation to Maratha Community in Maharashtra and whether it violates the ruling given in Indra Sawhney Judgement? In this case, a Constitutional bench of five judges ruled “*The Maharashtra State Reservation (of seats for admission in educational institutions in the State and for appointments in the public services and posts under the State) for Socially and Educationally Backward Classes (SEBC) Act, 2018 as amended in 2019 granting 12% and 13% reservation for Maratha community in addition to 50% social reservation is not covered by exceptional circumstances as contemplated by Constitution Bench in Indra Sawhney’s case.*”¹⁸ The Supreme Court scrapped the 2019 amendment as it breached 50% maximum reservation as the circumstances were not exceptional to allow the breach.

With this ruling we can see that the Supreme Court has been strict on the violation of the 50 % provision developed in Indra Sawhney case and from this we can expect that the court will consider 75% domicile reservation in Haryana as violation of the same provision. But, again the important question is whether the Supreme Court will consider the reservation in Private sector as a case falling under the umbrella of Indra Sawhney ruling?

IV. ECONOMIC ANALYSIS

In the process of reserving 75% of private sector jobs falling under the monthly gross salary of thirty thousand rupees, the law has posed a serious threat to the economy of Haryana. Haryana is known to be one of the richest states in India. The gross state domestic product of Haryana for the year 2020-21 is estimated to be Rs 9,39,720 crore¹⁹ Historically an agrarian state, Haryana today is a well-developed industrial state. The state is one of the largest contributors of automobiles and has also successfully emerged as a hub for knowledge industry including the information technology and biotechnology industries. It has been ranked third best state in the country under the ease of doing business report in the Business Reforms Action Plan 2017. But will the state, continue to thrive even after the new law is implemented? The answer is a resounding no.

The Haryana State Employment of Local Candidates Act, 2020 came into effect on 15th January, 2022. The Act, providing seventy-five percent employment of local candidates by employer, endangers the growth and economy of Haryana. It will push the start-ups out of the

¹⁸ Dr. JaishriLaxmanraoPatil V. The Chief Minister & Others, (2021) 8 SCC 1.

¹⁹ PRS India, <https://prsindia.org/budgets/states/haryana-budget-analysis-2020-21>

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state, jeopardise rental and real-estate businesses and also make Haryana unattractive for investment. The detailed analysis of effect of the law on economy of Haryana is as follows

SHORTAGE OF SKILLED MANPOWER

As the law stipulates 75% reservation for locals in private sector jobs, with a monthly salary up to Rs 30,000, Haryana observes a lack of candidates with required skills and expertise. Of late, the state has emerged as a hub of manufacturing of automobiles and knowledge industry. The quota affects the majority of labour employed in manufacturing, service and associated industries. In these industries, employers need employees with appropriate skills, knowledge and experience but the local residents of the state fail to qualify. This law does provide an exemption in case where the employer is unable to find adequate number of local candidates of the desired skill, qualification or proficiency. It states that in such a case, the employer can claim the above mentioned exemption under section 4 of the act by applying to the Designated Officer in the manner prescribed. Further, it will be within the jurisdiction of the Designated officer to accept, reject or direct the employer to train the candidates to equip them with desired skills. This sounds like a tedious process.

In line with the above problem, the chairman of Haryana PHD Chamber of Commerce, Mr. Pranav Gupta said, *“The move will lead to a shortage of skilled manpower in the state and affect competitiveness and productivity. A majority of manpower in manufacturing, services and allied sectors working in Gurgaon fall within the ambit of the quota. All these sectors would be severely impacted. The companies in IT and ITES sectors have to hire the best talent to remain competitive. Our position is that there should be no imposition and people should be allowed to work in any state.”*²⁰ Adding to this, Deepak Jain, former president, ACMA (Automotive Component Manufacturers Association of India) exclaimed, *“Our industry requires skilled workforce to produce high quality products that are globally competitive. Hiring in our sector is done on the basis of merit and talent rather than the domicile of the candidates. The reason for the industry to employ candidates from outside the State is due to the shortage of adequately skilled and locally available manpower.”*²¹

The industries hire people based on merit and not addresses. Employing less qualified local candidates will present a hurdle in attracting talent and diverse skill sets from outside the state.

²⁰Pavneet Singh Chadha, Gurgaon: Apprehensions over Haryana’s law to reserve jobs for locals, The Indian Express, <https://indianexpress.com/article/cities/delhi/gurgaon-haryanas-law-reservation-jobs-7633490/> (last updated Nov. 21 2021).

²¹YuthikaBhargava, Haryana’s new job quota rule ‘spells disaster’, says India Inc, The Hindu, <https://www.thehindu.com/business/Industry/haryanas-new-job-quota-rule-spells-disaster-says-india-inc/article33991908.ece>(last visited March 4 2021).

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Data from the Centre for Monitoring Indian Economy depicts that the unemployment rate of Haryana has been in excess of the national average since last four years. The data as on 31st January, 2022 shows the unemployment rate of Haryana as 23.4% whereas the average employment rate of India as 7.5%.²² Although Haryana is a hub of automobile manufacturing, software technology and new-age entrepreneurship, industries have always looked for human resources from across the country. One of the major reasons for this is the lack of adequately skilled local workforce, especially IT-knowledge. Taking this into consideration, the government should rethink the law and make reasonable investments in equipping local people with skills and proficiencies.

A SHIFT TO NOIDA

As soon as the Act came into picture, private companies and start-ups have started planning to move their set-up to Noida. Haryana consists of about 45% of the National Capital Region (NCR) which includes 14 districts²³ some of which are Gurugram (earlier Gurgaon), Faridabad, Rohtak, Sonapat, Jhajjar, Palwal and Bhiwani. These districts have a big contribution in the robust economy of Haryana due to their emergence as IT (information technology) and BPO (business process outsourcing) giants on a global level pooling talent from all over the world. Of late, the business and industries have fought their battle of survival against the COVID-19. After the implementation of this law, the problem has been aggravated.

Industries set up in these districts are anticipated to move out of the state because of the compulsion of employing 75% local candidates in the private sector. Major IT and associated industries are most likely to migrate to Greater Noida or even Pune. Noida has very high chances of accommodating these moving industries due to proximity to Gurugram and availability of appropriately skilled workforce from everywhere across the country. “*Multi-national companies come to the National Capital Territory for superior talent and they can easily relocate from Gurgaon to Noida if they feel that business will get difficult.*”²⁴ significantly stated by Mr. GaganRande, Executive Director, India Sotheby’s International Realty. Gurugram is home to many Tech-giants including Google, Microsoft, Tata Consultancy Services (TCS), Infosys, Wipro and HCL Technologies besides BPO units such as Genpact and Convergys. Along with this, Gurgaon also shelters start-ups including Zomato and Roposo.

²² Unemployment Rate in India, <https://unemploymentinindia.cmie.com/> (last visited 17th February 2022).

²³ National Capital Region Planning Board, <http://ncrpb.nic.in/ncrconstituent.html>

²⁴ FaizanHaidar, Haryana government’s reservation law might impact office space leasing, <https://bit.ly/3BzCW2I> (last updated on Nov 09, 2021).

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Depending on the various functions and firms, average pay for freshers, crew, delivery, service providers, and front-end personnel range from Rs. 12,000 to Rs. 40,000. Things brings majority of workforce working in these industries under the ambit of the Act. Due to the restrictions being put up on the employment of workforce in private industries, those earlier set up in Gurugram are now looking at Greater Noida as a better option. On similar lines, the MD and CEO of Invest India, a government arm that promotes and facilitates foreign direct investment (FDI), in an interview with the Economic Times commented, *“After all, very little land is left in Gurgaon. Companies looking for larger tracts of land are coming to Greater Noida now. It has also become attractive because a new airport with a logistics hub is being constructed.”*²⁵ The enforcement of this Act will lead to the shift of IT and BPO units out of the state. This will have a devastating and disastrous effect on the economy of Haryana.

NEGATIVE SIGNALS TO INVESTORS

In the interviews of leaders and investors of various private corporations, one can easily sense fear and disappointment due to the introduction of such law. This law has created deep doubts in the minds of potential investors. One such interview is of ManasFuloria, co-founder of digital engineering and technology solutions firm Nagarro where he was reported saying, *“For an IT firm like ours, a few local jobs (security, housekeeping) and entry-level positions for trainees and freshers will be affected. It will not be feasible to hire them all in Haryana and in many cases, one will see such people being absorbed in operations in other states. It is strange that we are being protectionist at a local level, while Gurgaon has emerged as an IT and BPO giant on a global stage, attracting talent from everywhere. We are nervous that the reservations can be expanded later and for manufacturing companies which have to make a large commitment in terms of setting up a business, such policy decisions will create a doubt”*.²⁶ The Government of Haryana must pay closer attention to the signals they provide to investors. After the recovery from the economic sink due to the restrictions posed by COVID-19, this law will push the prospective investments away. Companies look forward to hire best talents for every job position but such laws in the name of improving the ease of doing business, are just forcing them to reconsider their investments in the state and look for better alternatives. Praveen Yadav, president of Gurgaon Udyog Association, talking about the law sighs, *“Though certain exemptions have been given, the decision is not business friendly. New units, especially large*

²⁵ShantanuNandan Sharma, Noida vs Gurgaon: How a policy change by Haryana government could make UP city more attractive for industries, <https://bit.ly/3sOjCut> (last updated on Nov 20, 2021).

²⁶Pavneet Singh Chadha, Gurgaon: Apprehensions over Haryana’s law to reserve jobs for locals, <https://indianexpress.com/article/cities/delhi/gurgaon-haryanas-law-reservation-jobs-7633490/> (last updated on Nov 21, 2021).

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*manufacturing ones, will think twice before setting up business. There would be a lot of red tape in terms of implementation. The law is regressive and goes against the business-friendly image of Haryana. At a time (after Covid) when investments are needed, such restrictions should not be imposed*²⁷. Adding to this Mr. Rajiv Gandhi, chairman of the CII Haryana State Council expressed his concern by requesting the Chief Minister to look for some other alternatives to address the issue of job creation for youth instead of introducing such a job reservation law. This law will be an impediment to the growth of the industries in the state. The law has put investments and expansion plans of various business houses on hold, which does not bode well for the economy of the state.

ManmohanGand, general secretary, Manesar Industries Welfare Association laments the decision taken by the government, *“If the migrants don’t find jobs in Haryana, they will straight away head to Noida. It is the industry that will suffer, not the politicians.”*²⁸ The anger, disappointment and resentment in the air seems like an evil omen for the economy of Haryana. The prosperity and growth of Haryana is in danger. There is an urgent need for the concerned authorities to rise to the action.

CHALLENGE FOR RENTAL AND REAL-ESTATE BUSINESS

The business of buying , selling or renting out real estate property including land, buildings and housing, has a significant contribution in the income distribution of the people residing in Haryana. Since a notable proportion of NCR lies in Haryana, people migrate to the state in search of job, education etc. Due to this high migration rate, the rental and real estate business blooms. Amongst all the cities in Haryana, Gurugram is looked at as the best bet for investing in high rental income business. A report by real estate consultants Anarock depicts that the Gurugram has rental yield of 3.5% which is even more than the national average of 3%.²⁹ Rental yield is the estimate of how much an asset generates as a percentage of its total value. Gurugram attracts tenants due to proximity to the international airport, presence of affordable housing and other necessities like the metro is a cherry on the top. The consultancy also presented a consumer sentiment survey that displayed that approximately 49% investors in the area prefer to earn a steady rental income whereas another 42% wish to sell their property if

²⁷Pavneet Singh Chadha, Gurgaon: Apprehensions over Haryana’s law to reserve jobs for locals, <https://indianexpress.com/article/cities/delhi/gurgaon-haryanas-law-reservation-jobs-7633490/> (last updated on Nov 21, 2021).

²⁸Ashok Kumar, New Haryana law may hit jobs, growth: stakeholders, <https://bit.ly/3H0yr26> (last updated on January 20, 2022).

²⁹RaoJaswant Singh, Gurugram is the most preferred city for renting out homes, says study, <https://bit.ly/35dlWmM> (last updated on Jan 11, 2020).

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received appropriate prices. Merely, 9% built the asset for future.

The above statistics clearly shows the high degree of dependency of residents on rental income. But the latest law in picture jeopardises the livelihood of these real estate dealers. The restriction posed in this private job quota law has made the state incompatible for potential investors and migrating workforce. Many have predicted a flight of capital from Gurgaon to Noida. Noida and Gurugram are always at a war to outshine each other. In this pandemic, Gurugram was ranked as the most liveable city due to availability of hospitals and other necessities. Gurugram has always tried keeping one step ahead of Noida. The Delhi airport has proved to be a magnet for attracting companies and migrating workforce to Gurugram. But the tables are turning now. Uttar Pradesh government is initiating various schemes to support the manufacturing and IT sector and make the area business friendly. Construction of the Jewar airport is like icing on the cake. To aggravate the problem, this new law reserving 75% of private jobs has been introduced by the government of Haryana. This step can give rise to hurdles in the real estate business. In the words of Mr. AnckurSrivastava, chairman of real estate advisory firm GenReal Property Advisers, *“The law will pose a challenge to recruitment agencies who are hiring entry-level blue-collar staff. Gurgaon was attractive for MNCs because it offered a good talent pool. Now, if companies start moving, the impact on real estate will be direct.”*³⁰

POSSIBLE FALL IN “EASE OF DOING BUSINESS”

There is also a debate of whether these restrictions on the private sector will affect the ease of doing business of the private sector. This point is an important one. Keeping in mind the continuous initiatives taken by the Government from 2014 to increase the ease of doing business in India, these measures have been fruitful as can be seen in the Ease of Doing Business Report. India ranked 142 (out of 190 countries) in 2014 and 63 in 2020³¹. Steps like the present law can deteriorate the progress India is making in the ‘Ease of Doing Business’ index. During pandemic, Government should focus on lifting unnecessary restrictions in labor regulation instead of introducing hurdles like reservations. This is undoubtedly a bad move as businesses need to hire the best resources across the country for better governance of their operations. Mani Gupta, partner, Sarthak Advocates & Solicitors has also observed that this step can affect the progress of ease of doing business in India in her statement *“At the time when the Government of India is pushing to improve the ease of doing business, this move will*

³⁰FaizanHaidar, Here is how Haryana’s job quota law could affect Gurgaon’s real estate sector, <https://bit.ly/34MoSa6> (Last updated on March 08, 2021).

³¹ The Times of India, <https://bit.ly/3s147jM> (last visited Jan. 30 2022).

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adversely affect the business sentiment. The threshold of Rs 30,000 is significant and is likely to hamper the ability of the employers requiring skilled talent, including in IT and ITES sectors to hire the right talent.”³²

GaganRandeV, Executive Director, India Sotheby's International Realty brings in light a possible result when ease of doing business in Haryana will be affected and companies will look for alternatives when he says *“Reservations of any kind do affect the overall ease of doing business sentiment of a state or a country. Haryana needs to be cognizant of the signals it sends out to companies. Multinational Companies come to the National Capital Territory for superior talent and they can easily relocate from Gurgaon to Noida if they feel that business will get more difficult”³³* Ease of doing business is a very important aspect for companies and they being unsatisfied, they can easily shift to places like Noida or other emerging business hubs in National Capital Territory.

The process of the reservation is also a cumbersome task as pointed out by Harbhajan Singh, Chairman, Taskforce (ease of doing business) at CII in his words *“Most of the labour in industries would fall in the bracket of earning below Rs 30,000 and this implementation effectively closes up job opportunities for those outside Haryana. The requirement for industries to update the Haryana Udhyan Memorandum Portal with information on vacancies every three months is also a cumbersome process”³⁴* Here, another possible factor which can deteriorate the ease of doing business in Haryana has been rightly pointed out.

The factors discussed till now are more than enough to affect the ease of doing business in a negative manner. Companies will have to put in more energy and resources in the recruitment process and still, they will not be able to get the best possible resources keeping in check the ‘local candidates’ requirement. It will also be a tedious task to adhere to all the guidelines mandating routine reports to be submitted by private firms. To conclude, it is safe to say that ease of doing business can be adversely affected in the long term if these restrictions prevail over the private sector.

VII. CONCLUSION

Haryana State Employment of Local Candidates Act, 2020 is a step that has clearly evident issues. It is appreciable that the Government is walking an extra mile to increase the employment but the cost of doing that comes with direct clashes with provisions of the Indian

³² The Economic Times, <https://bit.ly/3oYhBuy> (last visited Nov. 09 2021).

³³ *Id.* at 12.

³⁴ The Print, <https://bit.ly/3rYE9NL> (last visited 22 Jan. 2022).

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Constitution and some Supreme Court judgements. The problem is not limited to the legal aspect but it also deteriorates the economy of the state. Private sector enterprises are disappointed and dubious. During these times, they expect some support from the government for survival but what are they actually receiving? Restrictions like reservations. The private sector will face a lot of hindrances in their operations if this law is wholly implemented. Talking about implementation, our last hope is the Judiciary of India. Currently there is a tussle going on between the private sector and the government of Haryana in the court and we are confident to say that the matter has fallen into right hands. We have faith in our courts and their judgments. Regardless of all this, the Constitution of India will prevail.



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