



EDITORIAL ANALYSIS

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Haryana's 75% quota to locals in private sector

Syllabus: GS2/ Indian Constitution, GS1/ Social Justice

In Context

- Recently, the Punjab and Haryana High Court quashed a law providing 75% quota to locals in the private sector.

About the Haryana State Employment of Local Candidates Act, 2020

- The law provided for **75% of the new employment** to be given to **local candidates** for jobs having a **salary of less than ₹30,000 per month** in various privately managed companies, societies, trusts, limited liability partnership firms, partnership firms, etc. situated in Haryana.
- Other States such as **Andhra Pradesh and Jharkhand** have also enacted similar legislation.

Rationale behind the legislation

- **Shift of jobs:**
 - There is resentment among locals in better-off States over their jobs being taken up by “migrant” workers and which has compelled their governments to come up with such protectionist measures.
- **Segmentation of the labour market:**
 - There are more than a few private employers who exploit the migrant labour market as such workers tend to work long hours for low wages with little or no social protection and benefits.
 - This creates a segmentation of the labour market with low-wage migrant workers on the one side and local workers with better bargaining power on the other.
- **Responsibility of private players:**
 - Immunity to the private sector from the constitutional responsibility of removing discrimination has become the biggest bane in post-liberalisation India.
 - The private sector has assumed the primary role of employer without much social responsibility or constitutional mandate.
- **Role of privatisation:**
 - Social justice movements have increasingly feared that increasing privatisation may lead to a complete decline of opportunities for the historically marginalised caste groups.
 - More than 1 lakh jobs, otherwise reserved for the Scheduled Caste and Scheduled Tribe communities, had been lost due to privatisation.

- **Way out from limitations:**
 - Job reservations for the local population are seen as a solution to the state's infrastructural and environmental problems.

Court's judgment:

- **Beyond state's purview:**
 - The court stated that it was beyond the purview of the State to legislate on the issue and restrict private employers from recruiting people from the open market.
- **Violative of Rights:**
 - It also held that the Act violated equality guaranteed under Article 14 and freedom under Article 19 of the Constitution.
 - The court said that by allotting 75% reservation for "locals", the Act militates against the **rights of citizens of the rest of the country**, and that such acts could lead to other States coming up with similar enactments, **in effect putting up "artificial walls"** throughout India.
- **Unreasonable restrictions:**
 - It argued that the Act was imposing unreasonable restrictions on workers' right to move freely throughout the territory of India.
 - The court termed the requirements on private employers stipulated in the Act as akin to those under "Inspector Raj".

Other criticisms:

- **Affecting Economy:**
 - Workers move to other States seeking job opportunities that are relevant to their skills and abilities.
 - If States build walls and impose restrictions that prevent job seekers from other States from accessing opportunities, citizens of poorer States will have to eke out a living within their own regions.
 - This will affect the economy of the entire country.
- **Pressure on the poor:**
 - Ironically, it is the poor migrant who takes the hit.
 - Such laws seek to exclude only those migrant workers who work in jobs that pay below a designated monthly wage.
- **Creation of anti-migrant sentiment:**
 - In addition to conflict over employment and lack of job creation, environment and climate change cloak the anti-migrant sentiment of nativist legislation.

Reservations in Public Employment - Constitutional Provisions

- **Article 16:**
 - It provides for **equality of opportunity for all citizens in matters of employment or appointment to any office under the State.**
 - No citizen can be discriminated against or be ineligible for any employment or office under the State on grounds of only **religion, race, caste, sex, descent, place of birth or residence.**
 - **Exceptions:** There are three **exceptions** to this general rule of equality of opportunity in public employment:
 - Parliament can prescribe **residence as a condition** for certain employment or appointment in a state or union territory or local authority or other authority.
 - As the Public Employment (Requirement as to Residence) Act of 1957 expired in 1974, there is no such provision for any state except Andhra Pradesh and Telangana.
 - The State can provide for reservation of appointments or posts in **favour of any backward class** that is not adequately represented in the state services.
 - A law can provide that the incumbent of an office related to a religious or **denominational institution** or **a member of its governing body** should belong to the particular religion or denomination.
- **Article 16 (4A):**
 - Provides that the State can make any provision for reservation in matters of promotion in favour of the Scheduled Castes and the Scheduled Tribes if they are not adequately represented in the services under the State.
 - It was inserted by the **77th Constitutional Amendment Act, 1995.**

Way ahead

- States should ensure that migrant workers in all establishments enjoy basic labour rights that are legally due to them, thereby creating a level playing field for all workers.
- This will also be a curb on exploitative practices by employers. Protectionism in the labour market is not the answer.

Daily Mains Question

[Q] What is the rationale behind legislation providing quotas to locals in the private sector? Examine the challenges & criticisms.