

WRONG SOLUTION: THE HINDU EDITORIAL ON URBAN-RURAL DIVIDE AND RESERVATION

Relevant for: null | Topic: Urbanization, their problems and their remedies incl. Migration & Smart Cities

The issue of reserving private sector jobs for people domiciled within the same State may face its first judicial test soon. The Supreme Court has asked the Punjab and Haryana High Court to decide within four weeks the validity of the Haryana law mandating 75% reservation for local candidates in private sector jobs that pay up to 30,000 a month. Even though the apex court set aside an interim stay order granted by the High Court, it was only doing so because the stay was granted without assigning reasons. It is a settled principle that legislation cannot be stayed unless there is a preliminary finding that it is unconstitutional or suffers from any glaring illegality. There are quite a few issues that arise when the State introduces a quota in the private sector, especially if it is based on a domicile norm. Andhra Pradesh and Jharkhand have also introduced such laws, while the ruling DMK in Tamil Nadu had promised 75% reservation in its election manifesto for last year's Assembly polls. Given the bleak employment situation in the backdrop of the reported loss of millions of jobs during the pandemic, it is no surprise that the leadership in every State seeks to find employment opportunities for its youth. In some States, employers may find it cheaper to use the services of those from a faraway State, while in others there may be an acute shortage of labour within the local population.

The first hurdle that a law such as the Haryana State Employment of Local Candidates Act will face is the constitutional bar on discrimination on the basis of place of birth or residence. Even though the Constitution allows the Government to prescribe a residential criterion for employment to public posts, it is doubtful whether such a measure can be extended to the private sector. In the Haryana case, it covers companies, societies, trusts, partnership firms and individual employers. The industry may feel aggrieved that the residential requirement may adversely affect the hiring of talent from outside Haryana. From an individual point of view, the law may impinge on the freedom of movement, the right to reside and settle in any part of the country, and the right to carry on any occupation. Of course, the Act provides for exemption to any employer if an adequate number of local candidates are not available in terms of skill, qualification and proficiency. And there is a sunset clause: the Act will cease to operate in 10 years. Beyond the question of legality, what is flagged by such developments is the state of the economy, especially the labour economy. Rapid urbanisation and the agrarian situation are behind large-scale migration in search of employment. The real issue to address is the widespread disparities between urban and rural areas, between advanced States and backward ones.

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