

Reservations for Kannadigas in the Private Sector: How will it impact Economic Growth and Employment Opportunities?

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Introduction

The Karnataka State Employment of Local Candidates in the Industries, Factories, and Other Establishments Bill, 2024 has led to a significant debate. This legislation, with the goal of boosting employment for *Kannadigas* (the people of Karnataka), aims to reserve a substantial portion of jobs in the private sector for local residents of Karnataka.

Though the Bill is intended to address unemployment issues among local residents, it raises questions about its potential impact on job creation and the broader economy. Critics argue that strict local hiring requirements could deter investment, limit the availability of skilled talent, and ultimately hinder economic growth. On the other hand, proponents believe that it could enhance job opportunities for locals and stimulate economic activity within the state.

As Karnataka considers this Bill, it is crucial to understand how such policies might influence economic growth and job opportunities so that we can have a balanced approach that benefits both local workers and the state's economy. Now, let's explore the Bill, its major provisions and other details surrounding it and examine its implications on the issues of employment and economic growth.

Public demand for private reservations: The background

Before knowing the Karnataka Private Reservation Bill, it is pertinent to look into the situations that led the State Government of Karnataka to bring a policy which provides reservations for the locals in the private sector.

Sarojini Mahishi report

The committee, led by former Union Minister Sarojini Mahishi, was constituted in 1983 by the then Karnataka State Government.¹ Sarojini Mahishi was the first woman Member of Parliament (MP) from Karnataka, representing the Dharwad North constituency for four terms from 1962 to 1980. She was also elected to the Rajya Sabha as a member of the Janata Party. The committee included notable members like poet Gopalakrishna Adiga, G.K. Satya, K. Prabhakara Reddy, G. Narayana Kumar and retired IAS officers, B.S. Hanuman and Siddaya Puranik. The report by this committee in 1984, named “Sarojini Mahishi Report”,² provided a recommendation that the Karnataka government reserve a certain percentage of jobs for *Kannadigas* in PSUs (Public Sector Undertakings), private companies and MNCs (Multi-National Companies).

The following are the major recommendations, among 58 recommendations made by the Sarojini Mahishi report –

1. 100% reservation for *Kannadigas* in all public sector units.
2. 100% reservation for *Kannadigas* in Group C and Group D jobs in Central Government departments and PSUs (Public Sector Undertakings) operating in Karnataka state.
3. At least 80% reservation for Group B jobs and 65% for Group A jobs for *Kannadigas* in Central Government units and PSUs operating in Karnataka.
4. All personnel offices in industrial units in Karnataka should have *Kannadiga* staff.
5. The private industries should prioritize hiring local people.

Public protests to implement Sarojini Mahishi Report

Earlier, before the pandemic, in February 2020, *Karnataka Sanghatanegala Okkuta*, a group of various pro-Kannada organizations, called for a state-wide *bandh* (shutdown).³ They demanded

¹ *What is Sarojini Mahishi report? And why Kannadigas call for bandh?*, ONEINDIA (Feb. 13, 2020, 8:55 PM), <https://www.oneindia.com/india/what-is-sarojini-mahishi-report-and-why-kannadigas-call-for-bandh-3032263.html>

² *Karnataka Bandh: What is the Sarojini Mahishi Report*, INDIA TV NEWS (Feb. 12, 2020, 23:56 PM), <https://www.indiatvnews.com/news/india/karnataka-bandh-what-is-the-sarojini-mahishi-report-jobs-kannadigas-588336>.

³ *Supra*

the implementation of decades-old recommendations of the Sarojini Mahishi report on job reservation for *Kannadigas* in both the government and the private sectors.

On July 1, 2024, members of Kannada organizations held a protest rally in Belagavi, demanding the quick implementation of the Sarojini Mahishi report of the Kannada Development Authority.⁴ Mr. Deepaka Gudaganatti, one of the members of Karnataka *Rakshana Vedika*, demanded that the State Government revoke licenses from companies that do not hire locals and take back the lands given to such industries at reduced prices.⁵ He also proposed that people who have lived in the State for over 15 years should be considered *Kannadigas* after passing a Kannada writing test.

Because of such protests and public demands, the District in charge Minister Satish Jarkiholi met with the protestors and promised to discuss the issue with the Chief Minister of Karnataka.⁶ He also said that he supports the idea of job quotas for locals but further mentioned that some states have faced legal issues with this. He said they will examine the issue and find a practical solution.

Karnataka Private Reservation Bill

The State Government of Karnataka introduced a bill titled the “Karnataka State Employment of Local Candidates in the Industries, Factories and Other Establishments Bill, 2024” (hereinafter mentioned as “the Bill”) with an object to providing reservations for locals in the private sector.⁷ As per this statute, in the case of non-managerial jobs, a substantial part, i.e., 70% of the jobs, are reserved for local candidates; while, in the case of managerial jobs, 50% are reserved. This is just a brief of what the Bill provides for. Before forming an opinion on the Bill, let us examine the Bill more and know what is the actual policy behind the Bill and the intention of the state legislation.

⁴ *Kannada activists take out rally seeking implementation of Sarojini Mahishi report*, THE HINDU (July 1, 2024, 08:54 PM), <https://www.thehindu.com/news/national/karnataka/kannada-activists-take-out-rally-seeking-implementation-of-sarojini-mahishi-report/article68356037.ece>.

⁵ *Supra*

⁶ *Supra*

⁷ Shilpa Elizabeth, *Karnataka Cabinet clears Bill mandating 50% reservation for locals in management jobs and 70% in non-management positions*, THE HINDU (July 18, 2024, 10:16 AM), <https://www.thehindu.com/news/national/karnataka/karnataka-cabinet-clears-bill-mandating-50-reservation-for-locals-in-management-jobs-and-70-in-non-management-positions-in-industries-factories-and-other-establishments/article68409256.ece>.

Applicability of the Bill

The provisions of the Bill will be applicable to all private industries, factories, companies and other establishments in the Karnataka state. Hence, the entities that are owned and operated by the State and Central Governments are excluded from the application of the said Bill.

The Bill categorizes jobs or positions in those private establishments into the following two main roles:

1. Management roles: These include positions that are supervisory, managerial, technical, operational and administrative.
2. Non-management roles: These cover clerical positions as well as unskilled, semi-skilled, and skilled jobs, particularly in the IT-ITES sector.

Who is a local candidate?

We know that the reservations are provided by the State Government in favour of the local candidates. Now, we should refer to the Act to know exactly what the phrase “local candidate” means. The Act defines a local candidate, who is eligible for the said reservations in the private sector, as someone who qualified the following conditions.

1. The candidate must be born in Karnataka state.
2. He/she must have lived in Karnataka for at least 15 years.
3. He/she could be able to speak, read, and write the Kannada language clearly.
4. He/she has passed a test conducted by the nodal agency.
5. Candidates need to have a secondary school certificate with Kannada as a subject. If they don't, they must pass a Kannada proficiency test set by a nodal agency appointed by the government.

What if there are no adequately qualified local candidates?

After the implementation of the Bill, the private establishments may face a situation where there aren't enough qualified local candidates or the local candidates are not adequately qualified. The

Bill foresaw this situation, where the private sector recruiter raised complaints as to the capabilities of the local candidates, and stated that, in such a situation, the industries and establishments, by collaborating with the government, should train local candidates within three years.

If industries or establishments can't find local candidates in sufficient numbers, they can make an application to the government requesting a relaxation of the provision of the said Bill. The government will take up the matter and, only after due investigation, will make a decision on the issue and such decision shall be final as declared by the Bill.

Nevertheless, the Bill further mandated the reservation percentage of local candidates should not go below 25% in management positions and 50% in non-management positions. Non-compliance with the provisions of the Bill by the private establishments will face fines ranging from ₹10,000 to ₹25,000.

How Karnataka is important for the private players

Before knowing the talk of the stakeholders about the Bill, it is very appropriate to understand the economic dynamics surrounding the state of Karnataka and why it is so important for many private players. Karnataka, with its capital Bangalore, is a cornerstone of India's economic landscape, particularly for the private sector. The state has emerged as a significant player in several key industries, making it a vital area for private sector operations and investments. Understanding the importance of Karnataka for private sector players involves looking at various facets of its economic contributions, and sectoral strengths, which are detailed below.

Tech Sector Hub

Karnataka, and specifically the city of Bangalore, is renowned as the tech capital of India. The state's tech sector contributes approximately 25% of Karnataka's GDP and plays a pivotal role in the country's information technology (IT) and IT-enabled services (ITES) industries.⁸ Bangalore is home to numerous global technology giants, including multinational corporations like IBM, Microsoft, and Cisco, as well as a thriving ecosystem of over 11,000 start-ups. This concentration

⁸ *Supra*

of technology companies and innovation hubs underscores Karnataka's strategic importance in driving technological advancement and digital transformation.

Global Capability Centres (GCCs)

Karnataka hosts around 15% of the world's Global Capability Centres (GCCs).⁹ These centres are critical to the global operations of multinational companies, providing a range of services from software development to business process outsourcing. The presence of these GCCs not only highlights Karnataka's role as a global service provider but also reflects its attractiveness as a destination for foreign direct investment (FDI) and high-value business operations.

Start-Up Ecosystem

Karnataka's start-up ecosystem is one of the most vibrant in India, with Bangalore often referred to as the "Silicon Valley of India." The state has fostered an environment conducive to start-up growth, characterized by supportive infrastructure, access to venture capital, and a network of incubators and accelerators. This dynamic start-up landscape not only drives economic growth but also positions Karnataka as a leader in entrepreneurial ventures and technological innovation.

Stakeholders' concerns

Various companies and groups are worried about the potential impact of the Karnataka Private Reservation Bill, potentially affecting the growth of businesses and the availability of skilled talent. They complained that the Bill raises many questions about balancing local employment requirements with maintaining the state's competitive edge in key industries.

⁹ Reshab Shaw, *Karnataka wants to be home to 15% of global GCCs by 2030, eyes 1 million jobs*, MONEYCONTROL (July 15, 2024, 05:35 PM), <https://www.moneycontrol.com/technology/karnataka-wants-to-be-home-to-15-of-global-gccs-by-2030-eyes-1-million-jobs-article-12769607.html>.

National Association of Software and Service Companies (NASSCOM)

On July 17, 2024, the NASSCOM, the leading lobby group for the tech industry, expressed disappointment and deep concern about the Karnataka State Employment of Local Candidates in the Industries, Factories and Other Establishments Bill, 2024.¹⁰

NASSCOM stated, *“It’s deeply disturbing to see this kind of Bill which will not only hamper the growth of the industry, impact jobs and the global brand for the state. NASSCOM members are seriously concerned about the provisions of this Bill and urge the State Government to withdraw the Bill. The Bill’s provisions threaten to reverse this progress, drive away companies, and stifle start-ups.”*

NASSCOM warned that local employment laws could force companies to relocate if skilled local talent becomes scarce. And, further emphasized that knowledge-driven businesses go where talent is, as attracting skilled workers is essential for their success. They noted that there is a global shortage of skilled talent, and Karnataka, despite having a large talent pool, is not immune to this issue.

They requested an urgent meeting for industry representatives with State authorities to discuss the concerns and prevent the State's progress from being derailed.

CEO of PhonePe

Sameer Nigam, the CEO and co-founder of PhonePe, has expressed opposition to the Karnataka Bill. In a post on X, Nigam, who has created over 25,000 jobs across India, argued that the Bill is unfair to people like him who have frequently moved and resided in various places due to his father was in the Indian Navy.¹¹ He further shared that he never lived in any state for more than 15 years and questioned whether his children deserved a private job in their home city under the new Bill. He expressed his disappointment with the situation, calling it “shameful”.

¹⁰ *Nasscom opposes Karnataka’s local jobs reservations bill, warns firms might relocate*, THE HINDU (July 17, 2024, 05:14 PM), <https://www.thehindu.com/business/Economy/nasscom-opposes-karnatakas-local-jobs-reservations-bill-warns-firms-might-relocate/article68414123.ece>.

¹¹ *“My Kids Don’t Deserve Jobs?”: PhonePe Founder On Karnataka Quota Bill*, NDTV (July 18, 2024, 01:59 PM), <https://www.ndtv.com/india-news/phonepe-ceo-sameer-nigam-slams-karnatakas-job-quota-bill-6130753>.

Chairperson of Biocon Ltd.

Kiran Mazumdar-Shaw, Executive Chairperson of Biocon Ltd, expressed concerns about the Karnataka Bill, stating *“As a tech hub, we need skilled talent. While the intention is to boost local employment, we must ensure it doesn't jeopardize Karnataka's leadership in technology. There should be provisions exempting highly skilled roles from this policy”*.¹²

Former CFO of Infosys

TV Mohandas Pai, former CFO of Infosys, criticized the Bill, calling it “discriminatory” and “regressive”. He stated *“This Bill must be scrapped. It's akin to fascism. How can the government dictate private-sector hiring practices? This move is reminiscent of Orwell's Animal Farm. It's unbelievable that @INCIndia (Indian National Congress) supports such a Bill”*.¹³

Timeline of the key events surrounding the Karnataka Private Reservation Bill

Here is a comprehensive timeline highlighting all significant events related to the Karnataka State Employment of Local Candidates in the Industries, Factories, and Other Establishments Bill, 2024, and their relevance to the current context.

- **1980:** R. Gundu Rao becomes Chief Minister of Karnataka. His tenure is marked by controversies, including the Gokak agitation, which arose from his decision to impose Sanskrit as the first language in schools. This decision led to many protests by the people of Karnataka.¹⁴

¹² *Explained: The Karnataka Quota Bill And Criticism Surrounding It*, NDTV (July 19, 2024, 01:49 PM), <https://www.ndtv.com/india-news/explained-the-karnataka-quota-bill-and-criticism-surrounding-it-6139235>.

¹³ *Karnataka Reservation: Mohandas Pai calls it discriminatory & regressive, Kiran Mazumdar-Shaw says 'we need skilled talent'*, THE ECONOMIC TIMES NEWS (July, 17, 2024, 01:30 PM), <https://economictimes.indiatimes.com/news/bengaluru-news/karnataka-reservation-mohandas-pai-calls-it-discriminatory-regressive-kiran-mazumdar-shaw-says-we-need-skilled-talent/articleshow/111802926.cms?from=mdr>.

¹⁴ Shilpa Elizabeth, *From Gokak agitation to 'quota for locals' Bill: A long history of language and quota movements in Karnataka*, THE HINDU (July 23, 2024, 09:00 PM), <https://www.thehindu.com/news/cities/bangalore/from-gokak-agitation-to-quota-for-locals-bill-a-long-history-of-language-and-domicile-movements-in-karnataka/article68433521.ece>.

- **June 4, 1982:** Chief Minister Gundu Rao holds two meetings regarding the Gokak Committee report, which recommends making Kannada the primary language in schools.
- **1983:** The Janata government, led by Ramakrishna Hegde, comes to power. This government seeks to address various movements, including the *Kannadiga* movement and introduces the Sarojini Mahishi Committee to address employment reservations for locals.
- **1986:** The Sarojini Mahishi Committee submits its report advocating for reservations of public sector jobs for local candidates. It suggests 100% reservation in Group D jobs and 65% in Group C jobs for locals in central public sector units and state public sector units, though the recommendations are never fully implemented.¹⁵
- **Post-1991:** The liberalization era begins, leading to significant growth in the private sector. The focus shifts from public to private sector investments, with states competing to attract industrial investments. The "quota for local bill" would have been seen as a deterrent to investment.
- **2016:** A revised Mahishi Committee report is submitted during the Siddaramaiah-led government. This report extends the reservations to the private sector, suggesting that C and D group jobs in various industries, including IT-BT and start-ups, should be reserved for locals.
- **December 27, 2023:** Karnataka *Rakshana Vedike* activists rally over Kannada signboard rules, underscoring ongoing local and regional demands related to Kannada language and employment reservations.
- **July 15, 2024:** The Karnataka Cabinet, chaired by Chief Minister Siddaramaiah, clears the Karnataka State Employment of Local Candidates in the Industries, Factories and Other Establishments Bill, 2024. This Bill mandates that industries and establishments appoint local candidates in 50% of management positions and 70% in non-management positions.

¹⁵ Sharath Srivastva, *Karnataka mulls over 100% reservation for Kannadigas in C and D group jobs in private industries*, THE HINDU (July 14, 2024, 12:13 PM), <https://www.thehindu.com/news/national/karnataka/karnataka-mulls-over-100-job-reservation-for-kannadigas-in-c-and-d-group-jobs-in-private-industries/article68286323.ece>.

- **July 17, 2024:** The Chief Minister of Karnataka on X posted that “*the draft bill intended to provide reservations for Kannadigas in private sector companies, industries, and enterprises is still in the preparation stage. A comprehensive discussion will be held in the next cabinet meeting to make a final decision*”.¹⁶
- **July 22, 2024:** The State Cabinet defers discussion on the Bill due to backlash from industry leaders and bodies. The draft Bill's introduction in the ongoing monsoon session of the legislature is uncertain. The Congress high command also advises a cautious approach to the Bill. Additionally, a proposal to increase working hours in the IT sector is deferred for further consultations.¹⁷

This timeline captures the progression of the local employment reservation policy in Karnataka, from its historical roots in the Gokak agitation and Sarojini Mahishi Committee recommendations to the contemporary legislative developments and controversies surrounding the 2024 Karnataka Bill.

Similar policies in other states

Various Indian states, including Andhra Pradesh, Madhya Pradesh, and Jharkhand, have introduced similar policies providing reservations for locals in the private sector. Though these laws share commonalities with the Karnataka State Employment of Local Candidates in the Industries, Factories, and Other Establishments Bill, 2024, we can find differences too. For example, unlike Karnataka's proposed legislation, these laws focus primarily on residency criteria without requiring language proficiency. Here's a detailed comparison:

¹⁶ Arun Kumar Rao, *Karnataka Government Temporarily Withdraws Controversial Local Job Quota Bill Amid Industry Backlash*, THE FINANCIAL WORLD, <https://www.thefinancialworld.com/karnataka-government-temporarily-withdraws-controversial-local-job-quota-bill-amid-industry-backlash/>.

¹⁷ *Discussion on Karnataka draft Bill on job reservation for locals deferred*, THE HINDU (July 23, 2024, 10:49 AM), <https://www.thehindu.com/news/national/karnataka/discussion-on-karnataka-draft-bill-on-job-reservation-for-locals-deferred/article68434221.ece>.

1. The Andhra Pradesh Employment of Local Candidates in the Industries/Factories Act, 2019

- **Provisions:** This statute, which was enacted in August 2019, mandates that 75% of jobs in private industries be reserved for local candidates. The Act broadly defines local candidates as those who have domiciled in the state.¹⁸ The definition of local candidate states that the conditions to be considered as one will be prescribed under the rules. Unlike Karnataka's proposed Bill, the Andhra Pradesh law does not include language proficiency as a criterion.¹⁹
- **Legal status:** The law has faced legal challenges and is currently being reviewed by the Andhra Pradesh High Court.²⁰ The primary concern is whether the state can mandate private employers to reserve jobs based on domicile status, which could potentially infringe on constitutional rights such as the right to equality under Article 14²¹ of the Constitution and the right to carry on any occupation, trade, or business under Article 19(1)(g).²²

2. The Haryana State Employment of Local Candidates Bill, 2020

- **Provisions:** In 2020, Haryana enacted a law requiring private companies to reserve 75% of jobs for local candidates earning below a specified threshold.²³ Like the AP law, Haryana's legislation is based solely on residency and does not mandate language proficiency. This law applies to all private sector jobs, with some exceptions in case of inadequacy of skilled candidates.
- **Legal status:** The Punjab and Haryana High Court struck down the law in 2023, ruling that it violated constitutional principles, including the right to equality (Article 14) and the

¹⁸ Vikas Dhoot and V. Raghavendra, *Localising the labour force through reservations*, THE HINDU (Nov. 10, 2021, 02:49 PM), <https://www.thehindu.com/news/national/andhra-pradesh/localising-the-labour-force-through-reservations/article37413859.ece>.

¹⁹ The Andhra Pradesh Employment of Local Candidates in the Industries/Factories Act, 2019, No.29, Acts of Andhra Pradesh State Legislative Assembly, 2019 (India).

²⁰ V. Raghavendra, *HC tells A.P. govt. to file counter on 75% job quota to locals*, THE HINDU (May 6, 2020, 11:30 PM), <https://www.thehindu.com/news/national/andhra-pradesh/hc-tells-ap-govt-to-file-counter-on-75-job-quota-to-locals/article31521486.ece>.

²¹ INDIA CONST. art. 14.

²² INDIA CONST. art. 19.

²³ *The Haryana State Employment of Local Candidates Bill, 2020*, PRS, <https://prsindia.org/bills/states/the-haryana-state-employment-of-local-candidates-bill-2020>.

freedom to practice any profession (Article 19(1)(g)).²⁴ The court highlighted that such laws could potentially lead to artificial walls within the country, hindering the free movement and employment opportunities for citizens across states.

3. The Jharkhand Reservations of Vacancies in Posts and Services (Amendment) Bill, 2023

- **Provisions:** This Bill, passed in 2023, introduced horizontal reservations, including a 5% quota for dependents of Jharkhand *Andolankaris*, i.e., the participants in the state's separate statehood movement, in State Government jobs.²⁵ The state already has a reservation system in place: 26% for Scheduled Tribes (ST), 10% for Scheduled Castes (SC), 14% for Other Backward Classes (OBC), and 10% for Economically Weaker Sections (EWS). The amendment aims to increase these reservations to 67% for SC, ST, and OBC categories.
- **Implementation status:** The full implementation of the Bill, particularly the increase in reservation quotas, awaits the governor's approval, which was sought by the Chief Minister of Jharkhand, Hemant Soren. The provisions are currently under consideration and there has been no formal legal challenge yet.

Lessons from Past Precedents

From the similar laws in Andhra Pradesh, Haryana, and Jharkhand that provided reservation policies favouring local candidates in the private sector and the legal difficulties those have been facing, we can find many important lessons.

The Andhra Pradesh Employment of Local Candidates in the Industries/Factories Act, 2019, which mandated 75% reservations for locals, has not been fully implemented and is currently under judicial review. The Haryana State Employment of Local Candidates Act, 2020, was struck down by the Punjab and Haryana High Court for violating constitutional rights and creating unfair divisions and inequality among citizens. The Jharkhand Definition of Local Persons Bill, passed

²⁴ Vikas Vasudeva, *High Court sets aside Haryana law guaranteeing 75% reservation to locals in private sector*, THE HINDU (Nov. 17, 2023, 07:44 PM), <https://www.thehindu.com/news/national/other-states/high-court-sets-aside-haryana-law-guaranteeing-75-reservation-to-locals-in-private-sector/article67544320.ece>.

²⁵ *Bill for statehood movement activists' 5% job quota passed*, THE TIMES OF INDIA (Dec. 21, 2023, 08:31 AM), <https://timesofindia.indiatimes.com/city/ranchi/jharkhand-reservations-of-vacancies-in-posts-and-services-amendment-bill-2023-passed-5-job-quota-for-statehood-movement-activists/articleshow/106168640.cms>.

in 2022, was returned by the Governor due to concerns over its constitutionality, particularly its provision for 100% local reservations in specific job categories.

Following the backlash and concerns of the private players and the advice from the Congress high command, the Karnataka government clarified that the Bill is still in the preparatory stage and will undergo comprehensive discussions. In this regard, it is pertinent for the State Government of Karnataka to look at the above-mentioned past precedents that illustrate the legal challenges such policies can encounter and emphasize the importance of thoughtful and meticulous planning. It is crucial to design these policies in a way that balances the interests of local job seekers with constitutional mandates and broader economic considerations.

Constitutional provisions and judicial precedents

The Karnataka State Employment of Local Candidates in the Industries, Factories, and Other Establishments Bill, 2024, has sparked debates and raised constitutional concerns. Let us look at what constitutional provisions are involved in the present issue and why there are concerns relating to it.

Article 19(1)(g): Right to occupation, trade, or business

The Bill mandates that the private sector entities reserve 50% of managerial positions and 70% of non-managerial positions for local candidates. A 'local candidate' is defined as an individual born in Karnataka, domiciled in the state for at least 15 years, and proficient in Kannada. This includes reading, writing, and speaking the language, with proficiency verified by a nodal agency through a Kannada language test for those who did not study the language in school.

These requirements could infringe on the fundamental right to engage in any occupation, trade, or business as provided under Article 19(1)(g) of the Constitution. The Supreme Court, in the cases of *T.M.A. Pai Foundation v. State of Karnataka (2002)*²⁶ and *P.A. Inamdar v. State of Maharashtra (2005)*,²⁷ established that private institutions could not be compelled to implement reservations, except based on merit, as it would violate their right to conduct their business

²⁶ T.M.A. Pai Foundation v. State of Karnataka, A.I.R. 2003 S.C. 355 (India).

²⁷ P.A. Inamdar v. State of Maharashtra, A.I.R. 2005 S.C. 3226 (India).

autonomously. The court further noted that the Constitutional (Ninety-third Amendment), 2006,²⁸ which permits reservations for certain classes in educational institutions does not extend to private-sector employment. Therefore, the provisions of the Karnataka Bill may overstep constitutional limits by imposing such obligations on private enterprises.

Articles 19(1)(d) and 19(1)(e): Freedom of Movement and Residence

The reservation for locals in the private sector may violate the constitutional rights of both employer and employee under Articles 19(1)(d) and 19(1)(e), which guarantee the freedom to move freely and reside anywhere in India respectively. When Clauses (d), (e) and (g) of Article 19 of the Constitution are read together, it can be understood that, in the case of an employer or recruiter in a private company or an establishment, the employer has the right to employ whoever as per their requirement, capabilities or based on any other considerations and the State cannot restrict such right; And, in case of a potential employee anywhere from the country, the State cannot deny the opportunity to be employed on the grounds of residency requirement, language, region or any other unreasonable and unfair grounds.

By potentially restricting job opportunities for non-residents, the Bill could infringe on the right of individuals to seek employment across state borders, thereby undermining national unity and the principle of equal opportunity.

Article 16: Discrimination in Public Employment

The provisions of the Bill provide certain conditions to be considered as a “local candidate”. One of those conditions is that the candidate must be born and resided in Karnataka for a minimum of 15 years. These provisions in the Bill may conflict with Article 16,²⁹ which ensures equality of opportunity in public employment, especially Article 16(2)³⁰, which prohibits discrimination based on residence, among other factors. Further, Article 16(3)³¹ allows only the Parliament—not state legislatures—to make laws prescribing a residential requirement for public employment. The Supreme Court has consistently held in many cases that the state laws providing preferential

²⁸ The Constitutional (Ninety-third Amendment), 2005, No.93, Acts of Parliament, 2006 (India).

²⁹ INDIA CONST. art. 16.

³⁰ INDIA CONST. art. 16, cl. 2.

³¹ INDIA CONST. art. 16, cl. 3.

treatment based on residence are unconstitutional. For instance, in ***Kailash Chand Sharma v. State of Rajasthan & Ors. (2002)***,³² the Supreme Court struck down provisions which made the residence, whether within a state, district, or any other area, as a basis for preferential reservation or treatment. The Karnataka Bill, by stipulating local reservations in the private sector, raises similar issues of potential discrimination based on residence.

The Indira Sawhney Case: Cap on Reservations

The Supreme Court, in the case of ***Indra Sawhney v. Union of India (1992)***,³³ established a ceiling of 50% on reservations in public employment, emphasizing that this cap applies broadly, including any form of affirmative action. This ruling aimed to balance the need for affirmative action with merit-based selection processes. The Karnataka Bill, which proposes significant reservations for local candidates, could potentially exceed this cap, especially when combined with existing reservations and, hence, may thereby invite legal scrutiny.

Arguments in favour of reservations for locals in the private sector

The following are the arguments in favour of reservation policies like the Karnataka State Employment of Local Candidates in the Industries, Factories and Other Establishments Bill, 2024, that provide significant reservations for locals in private industries and other establishments.

Increased Employment for Locals

The Karnataka Bill proposes that 70% of non-managerial and 50% of managerial jobs in private companies in Karnataka be reserved for people living in the area. This would mean more job opportunities for local residents, which could help lower unemployment and make sure local people get a fair chance at work. It also helps reduce reliance on government support and boosts steady economic growth in the region.

Protection of Local Language and Culture

The Bill requires employees to know the Kannada language. This helps to keep the local language and culture alive in the workplace. It ensures that the region's cultural identity is maintained and

³² Kailash Chand Sharma v. State of Rajasthan & Ors., (2002) 6 S.C.C. 562.

³³ Indra Sawhney v. Union of India, A.I.R. 1993 S.C. 477.

that local traditions are represented. It also helps create a work environment that reflects local values so that it will be more inclusive for everyone.

Economic Development

By hiring locals, the money paid in salaries stays within the local community. This supports the growth of local businesses, improves public services, and helps build better infrastructure. The spending by local workers boosts the local economy, reduces economic disparities, and supports more balanced growth across Karnataka.

Fulfillment of Past Demands

The Bill addresses long-standing requests from Kannada organizations and local groups for better job opportunities. These groups have felt neglected in the past, and the Bill aims to correct this by following the suggestions made in the Sarojini Mahishi Report, which recommended reservations for locals to benefit the community.

Encouragement of Skill Development

With more local job opportunities, educational institutions and training centres might enhance their programs to better prepare students for these jobs. This can improve the skills of local workers and ensure they are ready for the job market, thus, benefiting the community and increasing local talent.

Reduction of Urban Migration

Providing more jobs locally means people won't need to move to big cities for work. This helps to reduce congestion in cities and lessens the pressure on city services. It also promotes development in rural and semi-urban areas so as to make them more self-sufficient.

Arguments against reservations for locals in the private sector

The following are the arguments in favour of reservation policies like the Karnataka State Employment of Local Candidates in the Industries, Factories and Other Establishments Bill, 2024, that provide significant reservations for locals in private industries and other establishments.

Legal Challenges

The Karnataka Bill, like similar laws in other states, challenges the broader ethos of Indian federalism and the principle of national unity. Such laws can create regional inequalities and undermine the foundational idea that every Indian citizen has the right to live and work anywhere in the country as recognised under Article 19 of the Constitution of India. These measures could lead to a fragmentation of the labour market and create artificial walls between states, as noted by the Punjab and Haryana High Court with regard to the Haryana Bill providing reservations for locals in private establishments. Furthermore, the Constitution of India guarantees equal job opportunities and the freedom to work anywhere. Previous precedents in various states have emphasised these rights, which could make the Bill legally problematic. In this way, the Bill might face legal issues because it could conflict with the constitutional rights of Indian citizens.

Industry Opposition

The Karnataka Bill has also faced strong opposition from the business community. Industry leaders argue that such measures could deter investment, drive companies away, and harm Karnataka's reputation as a hub for technology and innovation. Organizations like NASSCOM have expressed concerns that the Bill would hamper industry growth and negatively impact employment and the state's global standing. This pushback highlights the broader economic and strategic implications of the Bill beyond its legal aspects.

Economic Concerns of Private Players

In today's global market, an investor in a private industry, company or any other private establishment takes a lot of risk by investing his hard-earned personal money, including his savings, only with an ambition to gain significant profits and returns from such investments. Sometimes, a few investors invest money that was acquired through loans, borrowings, mortgaging assets, etc, which is considered an enormous amount of risk, especially when the financial status of the investor, among other aspects, is considered. These investments in the private sector are often associated with the word "risk" because there is no guarantee that one will receive profits and returns when they invest in something; many investors suffer losses due to many aspects, one among them being the lack of capabilities and low skills of the employees. Besides this, the companies in India should compete within the country and also across the globe because the

monopoly is not allowed in most of the fields in the private sector in India. Because of such vast competition, a few companies still may not survive with the market forces, though they invested a lot of money and effort. On top of that, if a government imposes reservation policies on private recruiters, it would be more risky and, thus, may have a possibility of a reduction in investments in Karnataka. Employers and recruiters in private companies are often very cautious when recruiting employees by testing their talent and deciding who is give a best value for such recruitment. Strict imposition of recruiting policies by the government may result in no investment, which may further lead to more unemployment, that is, the problem will increase in the long run.

Potential Impact on Business Growth

Considering the backlash from the private businessmen on the Karnataka Bill, we predict that private companies might be hesitant to start or expand their operations in Karnataka because of such strict local hiring rules and reservation policies. Because the companies give more importance to the skilled workforce as ‘labour’ is one of the factors of production and, sometimes, a deciding factor for survival in the market and even profit generation. The strict employment policies can reduce industrial output as companies might struggle to find suitable talent. Thus, these regulations could be seen as too limiting, affecting their ability to find the best candidates and potentially slowing down business growth in the region.

Possible Decline in Work Quality

If the local workforce doesn’t have the necessary skills for certain jobs, it could lead to lower quality work and reduced productivity for companies. This is especially critical for specialized positions where high skills and talent are very essential requirements. Hence, it might affect their operations and competitiveness if unskilled local workers for technical roles are hired.

Risk of Economic Fragmentation

According to general economic principles and various industry analyses, restrictive labour policies can have a negative impact on foreign direct investment (FDI), as businesses may prefer to invest in regions with more flexible employment laws. This can be a critical factor for companies looking to optimize operational efficiency and reduce costs.

Reserving a significant portion of the private jobs for locals might drive companies to relocate their operations to states with less restrictive hiring rules so that they will be saved from the compromise of hiring an unskilled workforce, who are not so potential and meet the expectations of the recruiters of the private establishments. This could lead to less investment in Karnataka and might increase economic differences between regions.

Challenges in Implementation

From the views of various stakeholders, it was understood that a significant proportion of businessmen and private players have expressed concerns about the administrative challenges and complexities involved in implementing new labour and employment policies. These concerns often revolve around the potential increase in operational costs and the difficulty in ensuring compliance with the new regulations. Because the companies might find it difficult to verify residency and language skills for job candidates, leading to potential disputes and added complexity. This could increase the burden on both businesses and regulatory authorities.

Effects on Workplace Morale and Diversity

Private job reservations for locals might affect feelings of fairness and diversity among employees. A study by McKinsey & Company³⁴ found that diverse teams are 35% more likely to have better financial returns, suggesting that diversity can significantly enhance business performance.

If jobs are given based on residency and language skills rather than qualifications, it could lead to perceptions of unfairness among non-local candidates. It might also limit the diversity of ideas and creativity that come from a more varied team.

Unemployment: The actual issue

The Bill providing reservations for locals in the private sector was introduced mainly due to the previous public demands and protests. The public was concerned with unemployment and, hence, demanded the government to provide reservations to them in the private sector. So, the main issue

³⁴ *Why diversity matters*, MCKINSEY & COMPANY (July 1, 2015), <https://www.mckinsey.com/capabilities/people-and-organizational-performance/our-insights/why-diversity-matters>.

here is the unemployment among Kannadigas (the people of Karnataka), especially the youth in Karnataka.

Not just Karnataka, but even India faces a significant unemployment challenge, primarily due to the mismatch between the skills of its workforce and the demands of the job market. As per a study conducted by the Ministry of Skill Development and Entrepreneurship, currently, only about 2.3% of India's workforce has received formal skill training, compared to 68% in the UK and 96% in South Korea.³⁵ This skills gap exacerbates unemployment, as many educated individuals lack the practical abilities required by employers. The country's demographic advantage, with over 54% of its population under 25 years of age, offers a potential economic boost. However, this advantage will be fleeting unless there is a substantial increase in skill development initiatives.

We found out what is the issue, i.e., unemployment among the people of Karnataka. Now, the question at hand is what is the solution to the issue of unemployment? Many experts say that one of the effective and practical solutions, possibly a permanent solution, to this issue, is to invest in education and skill development by the State Government so as to significantly uplift the employability of youth and the existing workforce.

The other possible solution is to create jobs in both public and private sectors by encouraging investments from private players. Bangalore is one of the metropolitan cities in India that receives huge investments, which will not only generate jobs but also capital for the government. Nevertheless, the reservation provisions in recruiting policies as required by the Karnataka Bill might hamper investments in Karnataka and, thus, even might reduce employment rate further.

Way forward

As the Karnataka State Employment of Local Candidates in the Industries, Factories and Other Establishments Bill, 2024, advances through its legislative process, several critical steps and considerations are essential to ensure a balanced and effective implementation. The path forward involves addressing both the practical challenges and the legal and economic implications of the Bill.

³⁵ National Skill Development Scheme, Ministry of Skill Development and Entrepreneurship, <https://www.msde.gov.in/sites/default/files/2019-09/National%20Skill%20Development%20Mission.pdf>.

1. Job creation

Karnataka, one of India's most dynamic states, can significantly remove unemployment through strategic job creation initiatives by the government. By growing its technology, manufacturing, and service sectors, the state can create a wide range of jobs. Encouraging investments and supporting new businesses will also help boost the economy and generate new jobs. Setting up innovation centres and business incubators will also help create jobs in new and exciting industries. Additionally, improving infrastructure and making it easier for businesses to operate will attract more companies to the state, leading to more job opportunities for its local employees.

2. Capacity Building and Skill Development

Data from the Ministry of Skill Development and Entrepreneurship reveals that the “*Large sections of the educated workforce have little or no job skills, making them largely unemployable.*”³⁶

To ensure that the youth *Kannadigas* are highly skilled and employed, the reservations though can provide immediate relief for the employment, they are not the sole solution for boosting local employment. A multi-faceted approach can create more robust employment opportunities for *Kannadigas*. The State Government of Karnataka can adopt the following measures and focus more on the same in your budget allocations and policy formulations.

- **Vocational Training Programs:** Expanding vocational education and training programs to align with industry needs can better prepare the local workforce for available job opportunities. Collaboration between educational institutions and industries can ensure that training programs are relevant and effective.
- **Entrepreneurship Support:** Encouraging entrepreneurship through support programs, funding, and mentorship can stimulate job creation. The National Small Industries Corporation (NSIC) reports that small and medium enterprises (SMEs) contribute to 45% of India's employment, highlighting the potential of entrepreneurship in generating jobs.
- **Infrastructure Development:** Investing in infrastructure projects can create numerous jobs across various sectors, including construction, maintenance, and management. The

³⁶ *Supra*

Economic Survey 2023 indicates that infrastructure projects could create an estimated 8 million direct and indirect jobs over the next decade.

- **Sector-Specific Initiatives:** Targeted initiatives in key sectors such as technology, healthcare, and manufacturing can drive job creation. For instance, the IT sector alone contributed to over 4.5 million jobs in India in 2022, as reported by NASSCOM.

3. Stakeholder Engagement and Dialogue

To foster a constructive dialogue and mitigate concerns, it is imperative for the Karnataka government to engage with a diverse range of stakeholders, including business leaders, industry associations, local communities, and legal experts. These discussions should aim to:

- **Address Industry Concerns:** Understanding and addressing the apprehensions of businesses, particularly regarding the potential impact on investment, competitiveness, and operational efficiency. This may involve providing clarifications or adjustments to the Bill to accommodate industry needs while still meeting the objectives of local employment.
- **Public Consultation:** Conducting public consultations to gather input from local communities and affected individuals. This can help in refining the criteria for “local candidates” and ensure that the Bill is equitable and addresses the genuine needs of the local workforce.

4. Legislative Revisions and Legal Review

Given the legal challenges that similar policies have faced, it is crucial to:

- **Review Constitutional Compatibility:** The Bill should be reviewed for its compliance with constitutional provisions, particularly concerning Article 19(1)(g) and Article 16. Engaging with legal experts to conduct a thorough review can help in making necessary amendments to avoid potential legal challenges.
- **Consultation with Legal Experts:** Seeking advice from constitutional and employment law experts to ensure that the Bill’s provisions are legally sound and align with judicial precedents.

Conclusion

The Karnataka State Employment of Local Candidates in the Industries, Factories, and Other Establishments Bill, 2024 aims to address unemployment issues among the people of Karnataka and satisfy the public demands. Nevertheless, a larger and long-term strategy such as enhancing education and skill development is said to be a permanent and practical solution to the issue of unemployment in Karnataka. With only less than 3% of India's workforce receiving formal vocational training compared to 70% and more in developed countries, and 56% of Indian youth lacking job-relevant skills, there is a clear need for comprehensive upskilling initiatives by both central and state governments.

To effectively increase employment opportunities for *Kannadigas*, the State Government of Karnataka needs to complement legislative efforts with robust vocational training programs, support for entrepreneurship, and investment in growth sectors such as technology and healthcare. These approaches can create sustainable job opportunities without solely relying on reservations, thus, fostering long-term economic development and improving workforce readiness in Karnataka.