

AS INTRODUCED IN LOK SABHA

**Bill No. 240 of 2019**

THE RESERVATION OF POSTS IN GOVERNMENT  
ESTABLISHMENTS OF ANDAMAN AND  
NICOBAR ISLANDS BILL, 2019

By

SHRI KULDEEP RAI SHARMA, M.P.

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BILL

*to provide for reservation in Government establishments in Andaman and Nicobar Islands for residents of Andaman and Nicobar Islands to improve their standard of living through employment and for matters connected or incidental thereto.*

WHEREAS clause (3) of article 16 of the Constitution enables the Parliament to make any law prescribing the requirement of residence within a State or Union territory in regard to a class or classes of employment or appointment or appointment to an office under the Government of, or any local or other authority within, a State or Union territory.

AND WHEREAS and clause (1) of article 38 of the Constitution, the State shall strive to promote the welfare of the people by securing and protecting as effectively as it may, a social order in which justice, social, economic and political, shall inform all the institutions of the national life.

BE it enacted by Parliament in the Seventieth Year of the Republic of India as follows:—

Short title,  
extent and  
commencement.

**1.** (1) This Act may be called the Reservation of Posts in Government Establishments of Andaman and Nicobar Islands Act, 2019.

(2) It extend to the whole of Union territory of Andaman and Nicobar Islands.

(3) It shall come into force on such date, as the Central Government may, by notification in the Official Gazette, appoint. 5

Definitions.

**2.** In this Act, unless the context otherwise requires,—

(a) "government establishment" means an establishment located in Andaman and Nicobar Islands which is owned, established, controlled, managed or financed by the Central Government and includes— 10

(i) a Ministry or department or subordinate office or attached office of the Central Government;

(ii) a public sector undertaking or statutory authority constituted under any Central Act;

(iii) a corporation in which not less than fifty-one per cent. of the paid-up share capital is held by the Central Government; 15

(iv) a Government company as defined under clause (45) of section 2 of the Companies Act, 2013; and

(v) a department functioning under the control of the Andaman and Nicobar Administration. 20

(b) "local candidate" means a candidate who belongs to the Scheduled Tribes or the Other Backward Class of the Union territory of Andaman and Nicobar Islands, any other who has resided in the Union territory of Andaman and Nicobar Islands for at least ten years and holds a valid domicile certificate prior to the commencement of this Act; and 25

(c) "prescribed" means prescribed by rules made under this Act.

Reservation  
for  
appointment  
or posts in  
Government  
Establishments  
for the Local  
Candidates of  
Andaman and  
Nicobar  
Islands.

**3.** (1) Notwithstanding anything contained in any judgment, decree or reservation order of any court or other authority and having regard to the inadequate representation of local candidates residing in Andaman and Nicobar Islands who constitute the majority of the total population of the Union territory of Andaman and Nicobar Islands, the reservation for appointment or posts in government establishments for the local candidates shall be hundred per cent.: 30

**Provided that where qualified or suitable local candidates are not available, the Government establishment shall, within three years, take appropriate steps to train and engage local candidates in such manner as may be prescribed.** 35

(2) Every vacancy reserved for local candidates under sub-section (1) shall be filled only be local candidates in such manner as may be prescribed.

Liaison Officer  
to ensure  
implementations  
of the Act.

**4.** (1) Every Government establishment shall designate an officer of such rank, as may be prescribed, to function as a liaison officer for the purpose of ensuring that the provisions of this Act or the rules made thereunder are not contravened. 40

(2) The liaison officer shall, from time to time, inspect and verify the documents, records and reports with respect to appointment of local candidates made by the appointing authority by direct recruitment or promotion.

(3) Where the liaison officer is satisfied that any establishment has contravened the provisions of this Act or the rules made thereunder or any direction or instruction issued, he shall submit a report of such contravention to the head of the establishment. 45

(4) On receipt of the report of contravention under sub-section (3), the head of establishment shall take such disciplinary action against the person responsible for such contravention as may be prescribed.

5       **5.** Every Government establishment, shall maintain documents and records, and furnish  
every year a report on the appointments of the local candidates made by direct recruitment  
and promotion to the Central Government in such manner and at such time, as may be  
prescribed. Maintenance  
of records.

**6. (1)** Whoever intentionally,— Penalty.

(i) makes a false claim that he is a local candidate; or

10       (ii) issue a false domicile certificate during the recruitment process;

shall be liable for punishment for a term, which may extend to three years.

(2) Where the Liaison Officer designated under section 4 intentionally breaches any of the provisions of this Act, he shall be liable for disciplinary action under the appropriate service rules.

15       **7.** The provisions of this Act shall have effect notwithstanding anything inconsistent  
therewith contained in any other law for the time being in force or anything contained in any  
judgment of any court of law contrary to it including judgment regarding ceiling on reservation. Overriding  
effect of the  
Act.

**8. (1)** The Central Government may, by notification in the Official Gazette, make rules  
for carrying out the purposes of the Act. Power to  
make rules.

20       (2) Every rule made under this Act by the Central Government shall be laid, as soon as  
may be after it is made, before each House of Parliament, while it is in session, for a total  
period of thirty days which may be comprised in one session or in two or more successive  
sessions, and if, before the expiry of the session immediately following the session or the  
successive sessions aforesaid, both Houses agree in making any modification in the rule or  
25       both the Houses agree that the rule should not be made, the rule shall thereafter have effect  
only in such modified form or be of no effect as the case may be; so, however, that any such  
modification or annulment shall be without prejudice to the validity of anything previously  
done under that rule.

## STATEMENT OF OBJECTS AND REASONS

The aspect of job reservation relies upon Government intervention into the labour relations area in order to promote the rights of some particular portion of the population. The original reservation was contemplated for twenty years and it is still going strong. The whole basis of reservation is an affirmative action *i.e.* to treat people who are fundamentally unequals as equals. Such an action is necessary for SCs, STs, OBCs, on the basis of thousands of years of discrimination they faced, but it should become a way to fulfil employment assurances of the local people.

There are currently 8000 to 10000 vacancies in Government post in Andaman & Nicobar Administration. The current process of recruitment to Government post in Andaman & Nicobar Islands Administration is done through online method. However because of poor internet and broadband connectivity in the islands, the locals are unable to participate in the process and the same is taken by residents of other States. Unemployment is on the rise in Andaman & Nicobar Islands as due to lack of reservation for locals & online recruitment, the residents are unable to secure employment under Government establishment.

The Bill proposes to reserve hundred percent jobs for local candidates which include a candidate who belongs to the Scheduled Tribes and Other Backward Class (OBC) of the Union Territory of Andaman or any other who has resided in the Union Territory of Andaman & Nicobar Islands for at least ten years and holds a valid domicile certificate before the commencement of this Act. The Bill intends to provide legislative backing to residence based reservations for locals of Andaman & Nicobar Islands who have resided in the islands for at least ten years.

The rationale behind this Bill is to tackle the menace of unemployment which has seen a rise due to implementation of online recruitment. Through 100 percent reservation for local candidates, the rising unemployment can be addressed as the locals will be entitled to post under the Government as per his qualification. The Bill also has penal provisions to regulate any wrong doing through fake certificates and claims for availing reservations meant for deserving local candidates. Further, it also has a provision to designate a liaison officer in every Government establishment who shall be responsible for ensuring that the provisions of the act are administered as per rules and in a fair manner.

The Bill seeks to provide adequate opportunities to locals of Andaman and Nicobar Islands who don't have sufficient representation in Government establishments. This Bill will encourage the residents of Andaman and Nicobar Islands to apply for recruitments in Government post and it will facilitate the development of the islands as reservation for locals will aid in increasing the standard of living of the local candidates.

Hence this Bill.

NEW DELHI;  
October 31, 2019.

KULDEEPRAI SHARMA

## FINANCIAL MEMORANDUM

Clause 3 of the Bill provides that where qualified or suitable local candidates are not available, the Government establishment within three years shall take appropriate steps to train and engage local candidates. The Bill, therefore, if enacted, would involve expenditure from the Consolidated Fund of India. It is estimated that a recurring expenditure of about rupees ten crore will be involved per annum from the Consolidated Fund of India.

A non-recurring expenditure of about rupees twenty crore is also likely to be involved.

#### MEMORANDUM REGARDING DELEGATED LEGISLATION

Clause 3 of the Bill provides that the vacancy reserved for local candidates shall be filled in such manner as may be prescribed by rules. Clause 4 provides that on receipt of the report of contravention under sub-section (3), the head of establishment shall take such disciplinary action against the person responsible for such contravention as may be prescribed by rules. Clause 5 provides appointing authority, shall maintain documents and records, and furnish every year a report on the appointments of the local candidates made by direct recruitment and promotion to the appropriate Government in such manner and at such time, as may be prescribed. Clause 8 of the Bill empowers the Central Government to make rules for carrying out the purposes of the Bill. As the rules will relate to matters of detail only, the delegation of legislative power is of a normal character.

LOK SABHA

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