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Analysing developments impacting business

KARNATAKA EXTENDS EXEMPTION TO IT ESTABLISHMENTS FROM COVERAGE UNDER INDUSTRIAL EMPLOYMENT (STANDING ORDERS) ACT 1946

4 June 2019

On 25 May 2019, the Government of Karnataka (Government) issued a [notification](#) (Notification) extending the exemption granted to knowledge-based industries – including information technology (IT), information technology enabled services (ITES), start-ups, animation, gaming, computer graphics, telecom, business process outsourcing and knowledge process outsourcing (together referred to as Exempted Establishments)- from the application of the Industrial Employment (Standing Orders) Act 1946 (IESO Act) for an additional period of 5 years with effect from the date of the Notification. The Government has been granting such exemptions to the Exempted Establishments for several years, the last of such notifications having been issued on 25 January 2014.

Conditions to be met by Exempted Establishments

The Notification mandates that the Exempted Establishments comply with certain conditions to enjoy the benefits of the exemption granted therein. Accordingly, the Exempted Establishments must:

- constitute an Internal Committee in accordance with the provisions of the Sexual Harassment of Women at Workplace (Prevention, Prohibition, Redressal) Act 2013 and the rules framed thereunder;
- set up a grievance redressal committee, comprising of equal number of representatives of employers and employees, for the purpose of redressing all types of grievances / complaints of employees within a reasonable timeframe;
- inform the concerned Deputy Labour Commissioner and Commissioner of Labour about cases of disciplinary action against their respective employees such as suspension, discharge, termination, demotion or dismissal; and
- promptly and completely intimate any information concerning the service conditions of their respective employees to the concerned Deputy Labour Commissioner and Commissioner of Labour within a reasonable timeframe fixed by the authority.

Comments

The Notification is the result of several companies in the IT/ITES sector making representations to the Government to continue the exemption hitherto granted to the

Exempted Establishments. The extension may have been motivated by the fact that Karnataka has been an industrial hub for the world's leading software companies.

It may be noted that the IESO Act applies to 'industrial establishments' as defined in the Payment of Wages Act 1936. The latter statute includes such establishments which the appropriate government may, by notification, specify. The Government has been applying the IESO Act to companies providing IT-based services as well. This may be inferred from the [notification](#) issued by the Government on 24 September 2012, wherein it required software establishments to submit their draft standing orders for certification to the Labour Commissioner before 31 December 2012. This caused several IT/ITES companies to voice their concerns through their representative body (National Association of Software and Services Companies) and argue that they have policies and procedures which are significantly more advanced than those followed by factories and other industrial establishments, and that any such move would unnecessarily impose the burden of further compliances and administrative hassles on them. Such opposition prompted the Government to grant exemption to such companies, albeit with certain conditions, and the Notification extends such exemption for another 5 years without any change in the conditions attached thereto.

Several trade unions have expressed their discontent towards the Notification, calling it an "anti-labour welfare" move. They have also claimed lack of inclusion in the process of deciding on the extension of the exemption, despite representations made by them in this regard.

While it remains to be seen how the Government responds to the concerns of the trade unions, the Notification may, on the whole, be seen by the Exempted Establishments as a welcome move towards easing the compliance requirements while ensuring that such establishments continue to implement adequate safeguards for their employees.

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