

HR Law Hotline

December 08, 2020

COVID-19 LEAVE FOR EMPLOYEES IN BENGALURU

- Karnataka was one of the first states to take initiative on regulating provision of COVID-19 leaves to employees
- The Karnataka High Court has directed the state government to take certain decisions regarding employees required to undergo quarantine due to COVID-19 infection
- The state labour department issued a notification on provision of COVID-19 leaves to employees in private/ public establishments¹

The State of Karnataka has been one of the first Indian states to provide quarantine leaves to employees. On March 5, 2020 when the lockdown had not started in the country, the state labour department had issued a notification granting of 28 days paid leave to COVID-19 infected workers.

The state government has now issued another notification on November 6, 2020 requesting employers, as follows:

- Employers should not treat the period of quarantine of employees infected by COVID-19 as unauthorized absence
- Employers should enable the COVID-19 infected employees to utilize their leaves as per entitlement for the period of quarantine
- Where employees are not covered under the Employees' State Insurance Act, 1948 and are infected by COVID-19, employers should enable such employees to undergo quarantine with grant of leaves as per their entitlement
- Employers should facilitate the employees who are infected by COVID-19 and do not have any leave entitlements, to transfer of leaves from entitlement of other employees, to enable such employees to undergo quarantine
- Employers should allow employees who do not have any leave entitlement to avail leaves that would accrue to them in future
- Where the employer is unable to grant leaves to their employees and such employees do not have any leave entitlement, the employer and the employees should consult with each other for grant of special leaves and settle the matter amicably.

The notification, which is in local language (Kannada), has been issued in pursuance of the Karnataka High Court order in the matter *AITUC v. State of Karnataka*², where the Hon'ble Court, while deciding on the protection of workmen who are forced to undergo quarantine either by reason of COVID-19 infection or by reason of being primary contacts, stated:

"Though cannot direct the State Government to do something which cannot be done within four corners of law, the Government can always explore the possibility of issuing appropriate directions under the Provisions of the Disaster Management Act, 2005 (for short 'the said Act of 2005'). If a direction is issued under the said Act of 2005 that a primary contact of a person who is tested positive for Covid-19 or an employee who is himself infected with Covid-19, must remain in quarantine for a particular time period, it is obvious that the said period of quarantine cannot be treated as a period of leave or a period of unauthorized absence. We direct the State Government to take necessary decision in this behalf."

Therefore, the Hon'ble High Court in the aforesaid order insinuated that the Karnataka state government should use its powers under the Disaster Management Act, 2005 to assuage the situation of the employees compelled to undergo quarantine due to COVID-19 infection or due to their exposure to COVID-19 owing to contact with infected individuals.

ANALYSIS

Although the endeavour is laudable, the notification seems to be issued to basically comply with the Karnataka High Court order dated October 21, 2020. While the notification seeks to provide various options to employers to enable their employees to undergo COVID-19 quarantine, without any reference to any specific labour laws or an amendment to the Karnataka Shops and Commercial Establishments Act, 1961, the notification may likely be treated as an *advisory*. In any case, it is something that employers should proactively consider at least from the employer's duty of care perspective and to help prevent further spread of the Covid-19 pandemic.

— Santosh Gangavati, Sayantani Saha & Vikram Shroff
You can direct your queries or comments to the authors

Research Papers

Taxing Offshore Indirect Transfers in India

February 28, 2025

Unlocking Corporate Philanthropy

February 27, 2025

Digital Health in India

February 26, 2025

Research Articles

Re-Evaluating Press Note 3 Of 2020: Should India's Land Borders Still Define Foreign Investment Boundaries?

February 04, 2025

INDIA 2025: The Emerging Powerhouse for Private Equity and M&A Deals

January 15, 2025

Key changes to Model Concession Agreements in the Road Sector

January 03, 2025

Audio

CCI's Deal Value Test

February 22, 2025

Securities Market Regulator's Continued Quest Against "Unfiltered" Financial Advice

December 18, 2024

Digital Lending - Part 1 - What's New with NBFC P2Ps

November 19, 2024

NDA Connect

Connect with us at events, conferences and seminars.

NDA Hotline

Click here to view Hotline archives.

Video

SIAC 2025 Rules: Key changes & Implications

February 18, 2025

How Cross Border M&A Will Shape

¹ <https://erajyapatra.karnataka.gov.in/WriteReadData/2020/1168.pdf>
² (WP 9009/2020) order dated October 21, 2020.

DISCLAIMER

The contents of this hotline should not be construed as legal opinion. View detailed disclaimer.

This Hotline provides general information existing at the time of preparation. The Hotline is intended as a news update and Nishith Desai Associates neither assumes nor accepts any responsibility for any loss arising to any person acting or refraining from acting as a result of any material contained in this Hotline. It is recommended that professional advice be taken based on the specific facts and circumstances. This Hotline does not substitute the need to refer to the original pronouncements.

This is not a Spam mail. You have received this mail because you have either requested for it or someone must have suggested your name. Since India has no anti-spamming law, we refer to the US directive, which states that a mail cannot be considered Spam if it contains the sender's contact information, which this mail does. In case this mail doesn't concern you, please unsubscribe from mailing list.