Domicile rules for J&K

Part of: GS-II- Governance (PT-MAINS-Personality Test)

When was the new policy introduced and how will it impact the people of the erstwhile State?


What did the 2010 Act say?

- The 2010 Act pertained to employment in the Civil Services comprising “district, divisional and State” cadre posts.
- Earlier, only permanent residents of J&K were eligible to apply for gazetted and non-gazetted posts.
- The domicile rules as defined under the amended order will determine recruitment to all government posts in J&K from now on.
- On May 20, the Union Cabinet chaired by Prime Minister gave ex-post facto approval to the order.
- On August 5, 2019, Parliament had diluted Article 370 of the Constitution, revoked the special status of J&K and had bifurcated the State into two Union Territories — of J&K and Ladakh, the latter without a Legislative Assembly.
- The two revoked provisions of the Constitution let the J&K Legislature decide the “permanent residents”, prohibiting a non-J&K resident from buying property there and ensuring job reservation for its residents.

What are the main features of the new policy?

- The March 31 order offered protection to domiciles only in Group D and entry-level non-gazetted government posts. After an uproar by the J&K unit of the Bharatiya Janata Party (BJP) which raised concerns that protecting only lower level jobs for domiciles was an insult to the residents, the MHA reversed the order within 72 hours. The newly formed Apni Party also opposed it.
- On April 3, a fresh order with six changes was issued saying the policy will apply to “any post” in the government.
- The order defines domiciles as anyone “who has resided for a period of 15 years in the UT of J&K or has studied for a period of seven years and appeared in Class 10th/12th examination in an educational institution located in the UT of J&K or who is registered as a migrant by the Relief and Rehabilitation Commissioner (Migrants)”.
- It said that children of central government officials including the all India services, public sector units, autonomous body of Centre, Public Sector Banks, officials of statutory bodies, central universities and recognised research institutes of the Centre who have served in J&K for a “total period of 10 years” will be domiciles.
The domicile status also applies to “children of such residents of J&K who reside outside J&K in connection with their employment or business or other professional or vocational reasons but their parents should fulfil any of the conditions provided”.

It will allow West Pakistan refugees and children of women who married non-locals to apply for jobs in J&K.

The power to issue domicile certificates has been vested in the tehsildar (revenue officer).

According to MHA’s reply to a parliamentary panel on February 18, there are over 84,000 vacancies in J&K of which 22,078 vacancies pertain to Class IV employees, 54,375 to non-gazetted, and 7,552 vacancies are at the gazetted level.

What are the rules for grant of domicile certificate?

On May 18, the J&K administration notified the J&K grant of domicile certificate procedure rules, 2020 to issue the certificates within 15 days, saying the officer not able to do so will be penalised ₹50,000 of his or her salary. Residents of J&K who live outside the erstwhile State can get domicile certificates by simply producing their Permanent Residence Certificate (PRC), ration card copy, voter card or any other valid document. Those migrants not registered with the Relief and Rehabilitation department can do so by providing documents such as electoral rolls of 1988, proof of registration as a migrant in any State in the country or any other valid document. There is a provision to get the certificate online too.

Why is the policy being opposed?

The two main political parties, the National Conference (NC) and the Peoples Democratic Party (PDP), have opposed the order saying “it was aimed at changing the demography” of J&K. The NC said in a statement that the amended domicile law was made in exercise of power under the J&K Reorganization Act 2019 that has been challenged in a number of petitions before the Supreme Court of India. The PDP said that it will resist the policy by democratic and peaceful means. It said the COVID-19 pandemic was not a deterrent for the Centre to continue with its project to disempower J&K and that the demographic change and disenfranchisement will further complicate the J&K issue.