



## **Circular No – 054 / 2023**

Date: 26.04.2023

To  
All Members of The Association

### **ELECTION TO THE LEGISLATIVE ASSEMBLY IN KARNATAKA GRANT OF PAID HOLIDAY TO THE EMPLOYEES ON POLLING DAY**

1. The Association vide its circular no. 46/2023 dated 12.04.2023 has circulated the instructions issued by election commission of India to the State Chief Secretary and also Chief Electoral Officer of Karnataka with regard to declaration of paid holiday on the day of election to the Karnataka State Legislative Assembly on 10.05.2023.
2. Chief Electoral Officer of Karnataka by his letter addressed to the Secretary to the Government Department of Labour has advised the Government of Karnataka to declare paid holiday in accordance with Section 3A of the Karnataka Industrial Establishments (National and Festivals) Holidays Act 1963 to the employees who are eligible to vote in the forthcoming election to the legislative Assembly scheduled to be held on 10.05.2023 . Copy of the letter dated 25.04.2023 the Chief Electoral Officer Karnataka is enclosed.
3. The Association has taken up the matter with the Secretary, Department of Labour, Government of Karnataka ensure that any



notification issued by the Government of Karnataka is in accordance with Section 3A of the Karnataka to Industrial Establishments (National and Festival) Holidays Act and the notification may not stipulate that the establishment itself should remain closed on the day of polling i.e. 10.05.2023

4. Copy of the letter dated 26.04.2023 addressed to Secretary, Department of Labour, Government of Karnataka is enclosed. Copy of the letter has been sent to Commissioner of Labour as well as Director of Factories.

**For, KARNATAKA EMPLOYERS' ASSOCIATION**

**Sd/  
[B C Prabhakar]  
President**



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# KARNATAKA EMPLOYERS' ASSOCIATION

NO.74, 2<sup>nd</sup> FLOOR, SHANKARA ARCADE, VANIVILAS ROAD,  
BASAVANAGUDI, BENGALURU - 560 004  
Reg. No. TU 507 / 20-3-1962

**B.C. Prabhakar**, B.A., B.L.,  
President

Date:25.04.2023

Chief Secretary  
Government of Karnataka  
Vidhana Soudha  
Bengaluru

Dear Sir,

**SUB: ELECTION TO THE LEGISLATIVE ASSEMBLY IN KARNATAKA**  
**GRANT OF PAID HOLIDAY TO THE EMPLOYEES ON POLLING DAY**

1. We refer to letter No.78 EPS/2023 dated 31.03.2023 issued by Election Commission of India on the above subject. The election commission has referred to Section 135-B of the Representation of People Act 1951 which provides for grant of paid holiday to the employees on the day of poll. Section 135-B reads as under:

**“ 135B. Grant of paid holiday to employees on the day of poll.—**

**(1) Every person employed in any business, trade, industrial undertaking or any other establishment and entitled to vote at an election to the House of the People or the Legislative Assembly of a State shall, on the day of poll, be granted a holiday.**

**(2) No deduction or abatement of the wages of any such person shall be made on account of a holiday having been granted in accordance with sub-section (1) and if such person is employed on the basis that he would not ordinarily receive wages for such a day,**

**he shall nonetheless be paid for such day the wages he would have drawn had not a holiday been granted to him on that day.**

**(3) If an employer contravenes the provisions of sub-section (1) or sub-section (2), then such employer shall be punishable with fine which may extend to five hundred rupees.**

**(4) This section shall not apply to any elector whose absence may cause danger or substantial loss in respect of the employment in which he is engaged.”**

2. The election commission has observed as under:

“The above provisions require that all the electors who are employees of establishments and shops including those which work on shift basis shall be granted a paid holiday on the day of poll in the Constituency where the general election is to be held. Further, there may be cases where a person is ordinarily resident of the Constituency and registered as an elector, may be serving or employed in an industrial undertaking or an establishment located outside the constituency having a bye-election. It is clarified that in such a situation, even those electors including casual workers working outside the constituency concerned would be entitled to the benefit of a paid holiday extended under the Section 135B(1) of the Representation of the People Act 1951.”

3. Section 135B makes it very clear that the provision thereof are available only to those persons who are entitled to vote at the election to the house of people or the legislative assembly of the State and only they shall be eligible for grant of paid holiday on the day of poll. Thus, the section has broader sweep and it applies to all who are entitled to vote irrespective of the fact whether they are employed in public or private sector in any business, trade, industrial undertaking or any other establishment.
4. In Karnataka, there is also another statutory provision which provides for similar benefit. The association would like to refer to

the section 3A of the Industrial Establishment (National and Festival) Holidays Act. Section 3A of the said Act reads as under:

**“3A. Grant of Holidays on the polling day, for House of the People or to the State Legislative Assembly.—**

Notwithstanding anything contained in section 3, when a general election to the House of the People or to the State Legislative Assembly or an election to fill up any casual vacancy in the House of the People or the State Legislative Assembly is held under the Representation of the People Act, 1951 (Central Act 43 of 1951), every employee (other than an employee in an Industrial establishment owned or controlled by the Government of India) whose name is included in the electoral roll of the constituency where such election is held, shall be allowed on the polling day, a day’s paid holiday to enable him to exercise his franchise.”

5. The above section is applicable to all the employees working in the Industrial Establishments. The Act applies to the following Industrial Establishments.
  - Shops or Commercial Establishments.
  - Factory
  - Any plantation
  - Any other Establishment with the State Government may by Notification declare to be an Industrial Establishment for the purpose of the Act.
6. Accordingly, the employees working in the above establishments who are registered voters are entitled to be allowed paid holiday on the day of polling to exercise their franchise. Except those establishments which belong to Government of India all other establishments in Karnataka are bound by the above provisions.
7. While the position under the representation of People Act as well as the Karnataka Industrial Establishment stands as above, the

Government of Karnataka in its earlier notification no. DPAR11HHL2018 dated 03.05.2018 issued under the Negotiable Instrument Act had declared that public holiday on 12.05.2018 Saturday in view of the election to the Karnataka Legislative Assembly to all the nationalized banks and other banks and concerned officers within the jurisdiction of the all local bodies and municipal corporations. **The notification further ordered that grant of public holiday to all the permanent and daily wage workers working in all business undertakings industrial undertaking and any other public establishments. (Emphasis added).** Copy of the notification issued by the Government on 03.05.2018 is enclosed for ready reference.

8. The portion of the notification shown in bold letter is contrary to the provisions as contained in Section 135B of the Representation of People Act and Section 3A of the Karnataka Industrial Establishment (National and Festival) Holidays Act. The provisions in the said two enactments will be applicable only **to those employees who are registered as voters and entitled to exercise their franchise in the election to the legislative assembly or the house of people as the case may be.** The precondition as stipulated in both the enactments is not referred to in the above order and a plain reading of the notification would show that paid holiday should be allowed to the employees of the establishments as the word used is public holiday.
9. The Association would like to submit that there are many employees in the State of Karnataka particularly at the centres where there is concentration of Industries and Other Commercial Establishments like Bengaluru, Mysuru, Davanagere, Hubballi, Mangalore, Belgaum. The IT and ITES Establishments are registered under the Shops and Commercial Establishments Act and the above order would be applicable to the said establishment

also. IT & ITES establishments engages several thousands of employees who hail from different parts of the country. There is no election in the other states on the day on which polling for election to legislative assembly in Karnataka is being held. The provisions of the above Acts are not applicable to those employees who are not entitled to vote in the election to the legislative assembly of Karnataka. In accordance with the statutory provision referred to above, there is no obligation on the employers to grant paid holiday to such employees who are not registered as voters in Karnataka and not entitled to vote in the forthcoming election. However, the notification issued in the past is not in accordance with the statutory provision. Further, the IT & ITES Establishments work for establishments spread in different parts of the Globe with different timings. Their holidays schedule is decided well in advance and circulated to the clients. The work schedule is designed having regard to the intervening holiday during the relevant time. If the establishment fails to deliver the project within the stipulated time or delays the execution of any work, besides straining the relationship between the establishment and the customer, they may be made to pay hefty fine for delay in execution of the order. Further, there are several BPO Establishments who serve the Establishments situated in different countries. Their holiday list is finalized well in advance. Any changes during the year would adversely affect their functioning. In BPO also there are many employees who hail from different parts of the Country, who are not eligible to vote in Karnataka. The statutory provision referred to above, do not contemplate granting of paid holiday to such employees who are not included in the voter list and not eligible to vote.

10. In the absence of clarity in the notification, the enforcement officers of the Labour Department and Police Officials insist on the

employers to close the establishment on the day of polling which is not intended either in the Representation of People Act or under the Karnataka Industrial Establishment (National and Festival) Holidays Act. Such insistence of the Enforcement Officers will not only tarnish the image of the IT & ITES establishments but has the potential of causing them heavy loss.

11. In view of the position explained above, the Association requests you to issue appropriate instruction to the concerned department to issue notification to conform to the provision of the aforesaid Act.

**For Karnataka Employers' Association**

*B. C. Prabhakar*

**B.C. Prabhakar**  
**President**

Mob: 98440 33348

**Copy to**

- 1) Secretary, Department of Labour, Government of Karnataka.
- 2) Commissioner of Labour, Department of Labour, Karmika Bhavan.
- 3) Chief Electoral Officer, Government of Karnataka.





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# KARNATAKA EMPLOYERS' ASSOCIATION

NO.74, 2<sup>nd</sup> FLOOR, SHANKARA ARCADE, VANIVILAS ROAD,  
BASAVANAGUDI, BENGALURU - 560 004  
Reg. No. TU 507 / 20-3-1962

**B.C. Prabhakar**, B.A., B.L.,  
President

Date:26.04.2023

Secretary  
Labour Department  
Government of Karnataka  
Vikasa Soudha  
Bengaluru – 560001

Dear Sir,

**SUB: ELECTION TO THE LEGISLATIVE ASSEMBLY IN KARNATAKA  
GRANT OF PAID HOLIDAY TO THE EMPLOYEES ON POLLING DAY**

1. We refer to letter No.78 EPS/2023 dated 31.03.2023 issued by Election Commission of India on the above subject. The election commission has referred to Section 135-B of the Representation of People Act 1951 which provides for grant of paid holiday to the employees on the day of poll. Section 135-B reads as under:

**“ 135B. Grant of paid holiday to employees on the day of poll.—**

**(1) Every person employed in any business, trade, industrial undertaking or any other establishment and entitled to vote at an election to the House of the People or the Legislative Assembly of a State shall, on the day of poll, be granted a holiday.**

**(2) No deduction or abatement of the wages of any such person shall be made on account of a holiday having been granted in accordance with sub-section**

**(1) and if such person is employed on the basis that he would not ordinarily receive wages for such a day, he shall nonetheless be paid for such day the wages he would have drawn had not a holiday been granted to him on that day.**

**(3) If an employer contravenes the provisions of sub-section (1) or sub-section (2), then such employer shall be punishable with fine which may extend to five hundred rupees.**

**(4) This section shall not apply to any elector whose absence may cause danger or substantial loss in respect of the employment in which he is engaged."**

2. The election commission has observed as under:

"The above provisions require that all the electors who are employees of establishments and shops including those which work on shift basis shall be granted a paid holiday on the day of poll in the Constituency where the general election is to be held. Further, there may be cases where a person is ordinarily resident of the Constituency and registered as an elector, may be serving or employed in an industrial undertaking or an establishment located outside the constituency having a bye-election. It is clarified that in such a situation, even those electors including casual workers working outside the constituency concerned would be entitled to the benefit of a paid holiday extended under the Section 135B(1) of the Representation of the People Act 1951."

3. Section 135B makes it very clear that paid holiday on polling is available only to those persons who are entitled to vote at the election to the house of people or the legislative assembly of the State and only they shall be eligible for grant of paid holiday on the day of poll. Thus, the section has broader sweep, it applies to all who are entitled to vote irrespective of the fact whether they are employed in public or private sector in any business, trade, industrial undertaking or any other establishment.

4. Chief Electoral Officer of Karnataka by his letter addressed to the Secretary to the Government Department of Labour has advised the Government of Karnataka to declare paid holiday in accordance with Section 3A of the Karnataka Industrial Establishments (National and Festivals) Holidays Act 1963 to the employees who are eligible to vote in the forthcoming election to the legislative Assembly scheduled to be held on 10.05.2023 . Copy of the letter dated 24.04.2023 the Chief Electoral Officer Karnataka is enclosed for ready reference.
5. Section 3A of the aforesaid Act reads as under:

**“3A. Grant of Holidays on the polling day, for House of the People or to the State Legislative Assembly.—** Notwithstanding anything contained in section 3, when a general election to the House of the People or to the State Legislative Assembly or an election to fill up any casual vacancy in the House of the People or the State Legislative Assembly is held under the Representation of the People Act, 1951 (Central Act 43 of 1951), every employee (other than an employee in an Industrial establishment owned or controlled by the Government of India) whose name is included in the electoral roll of the constituency where such election is held, shall be allowed on the polling day, a day’s paid holiday to enable him to exercise his franchise.”
6. The above section is applicable to all the employees working in the Industrial Establishments. The Act applies to the following Industrial Establishments.
  - Shops or Commercial Establishments.
  - Factory
  - Any plantation

- Any other Establishment with the State Government may by Notification declare to be an Industrial Establishment for the purpose of the Act.
7. Accordingly, the employees working in the above establishments who are registered voters are entitled to be allowed paid holiday on the day of polling to exercise their franchise. Except those establishments which belong to Government of India all other establishments in Karnataka are bound by the above provisions.
  8. The Association would like to submit that there are many employees in the State of Karnataka particularly at the centres where there is concentration of Industries and Other Commercial Establishments like Bengaluru, Mysuru, Davanagere, Hubballi, Mangalore, Belgaum. The IT and ITES Establishments are registered under the Shops and Commercial Establishments Act and the above order would be applicable to the said establishment also. IT & ITES establishments engage several thousands of employees who hail from different parts of the country. There is no election in the other states on the day on which polling for election to legislative assembly in Karnataka is being held. The provisions of the above Acts are not applicable to those employees who are not entitled to vote in the election to the legislative assembly of Karnataka. In accordance with the statutory provision referred to above, there is no obligation on the employers to grant paid holiday to such employees who are not registered as voters in Karnataka and not entitled to vote in the forthcoming election. Further, the IT & ITES Establishments work for establishments spread in different parts of the Globe with different timings. Their holidays schedule is decided well in advance and circulated to the clients. The work schedule is designed having regard to the intervening holidays during the relevant time. If the establishment fails to deliver the project

within the stipulated time or delays the execution of any work, besides straining the relationship between the establishment and the customer, they may be made to pay hefty fine for delay in execution of the order. Further, there are several BPO Establishments who serve the Establishments situated in different countries. Their holiday list is finalized well in advance. Any changes during the year would adversely affect their functioning. In BPO also there are many employees who hail from different parts of the Country, who are not eligible to vote in Karnataka. The statutory provision referred to above, do not contemplate granting of paid holiday to such employees who are not included in the voter list and not eligible to vote.

9. The Government of Karnataka in its earlier notification no. DPAR11HHL2018 dated 03.05.2018 issued under the Negotiable Instrument Act had declared that public holiday on 12.05.2018 Saturday in view of the election to the Karnataka Legislative Assembly to all the nationalized banks and other banks and concerned officers within the jurisdiction of all local bodies and municipal corporations. **The notification further ordered that grant of public holiday to all the permanent and daily wage workers working in all business undertakings industrial undertaking and any other public establishments. (Emphasis added).** Copy of the notification issued by the Government on 03.05.2018 is enclosed for ready reference.
10. The portion of the notification shown in bold letter is contrary to the provisions as contained in Section 135B of the Representation of People Act and Section 3A of the Karnataka Industrial Establishment (National and Festival) Holidays Act. The provisions in the said two enactments will be applicable only **to those employees who are registered as voters and entitled to exercise their franchise in the election to the legislative**

**assembly or the house of people as the case may be.** The precondition as stipulated in both the enactments is not referred to in the above order and a plain reading of the notification would show that paid holiday should be allowed to the employees of the establishments as the word used is public holiday.

11. In the absence of clarity in the notification, the enforcement officers of the Labour Department and Police Officials insist on the employers to close the establishment on the day of polling which is not intended either in the Representation of People Act or under the Karnataka Industrial Establishment (National and Festival) Holidays Act. Such insistence of the Enforcement Officers will not only tarnish the image of the IT & ITES establishments but has the potential of causing them heavy loss.
12. In view of the position explained above, the Association request your good-self to kindly ensure that any notification issued by the Government of Karnataka is in accordance with Section 3A of the Karnataka Industrial Establishments (National and Festival) Holidays Act and the notification may not stipulate that the establishment itself should remain closed on the day of polling i.e. 10.05.2023.

**For Karnataka Employers' Association**

*B. C. Prabhakar*

**B.C. Prabhakar**  
**President**

Mob: 98440 33348

**Copy to**

- 1) Commissioner of Labour, Karmika Bhavana, Bengaluru
- 2) Director of Factories, Department of Factories, Boilers, Industrial Safety and Health, Karmika Bhavana, Bengaluru.



**GOVERNMENT OF KARNATAKA**

No: DPAR 11 HHL 2018

Karnataka Government Secretariat,  
Vidhana Soudha,  
Bengaluru, Dated: 03/05/2018.

**NOTIFICATION-II**

Under the explanation of Section 25 of Negotiable Instruments Act 1881 (Act No. XXVI of 1881) read with Notification no. 20/25/26/PUB-I, dated: 15.06.1957 of the Government of India, Ministry of Home Affairs, a public holiday is declared on 12/05/2018, Saturday in view of Elections to the Karnataka Legislative Assembly to all the Nationalised Banks, other Banks and the concerned offices within the jurisdiction of all Local Bodies and Municipal Corporations. Further it is ordered to grant a paid holiday to all the Permanent and Daily wages workers working in all Business Undertakings, Industrial Undertakings and any other Public Establishments.

By Order and in the name of the  
Governor of Karnataka,

(Dr. Nanjundegowda)  
Under Secretary to Govt.  
DPAR(State Protocol)

**To :** The Compiler, Karnataka Gazette, Government press, Bengaluru for  
Publication in the Gazette and to supply 250 copies.

**Copy to:**

- 1) The Accountant General, Karnataka, Bangalore.
- 2) Chief Secretary to Government, Vidhana Soudha, Bangalore
- 3) Additional Chief Secretary to Government, Vidhana Soudha, Bangalore
- 4) Additional Chief Secretary and Development Commissioner, Vidhana Soudha, Bangalore
- 5) Additional Chief Secretaries.
- 6) All Principal Secretaries / Secretaries.
- 7) Principal Secretary to Governor, Raj Bhavan, Bengaluru.
- 8) Principal Secretary to Chief Minister 1 and 2, Vidhana Soudha.
- 9) The Chief Electrol Officer, Bengaluru.
- 10) All Regional Commissioners.
- 11) All Deputy Commissioners.
- 12) All Heads of Departments.



**GOVERNMENT OF KARNATAKA**

No: DPAR 11 HHL 2018

Karnataka Government Secretariat,  
Vidhana Soudha,  
Bengaluru, Dated: 03/05/2018.


**NOTIFICATION-I**

Election to the Karnataka Legislative Assembly is scheduled on 12/05/2018. In order to facilitate voters to cast their votes, a public holiday is declared on 12/05/2018, Saturday to all the Central and State Government Offices, Schools, Colleges, various Organisations and Private Institutions (including Aided and Un-Aided Educational Institutions) within the respective polling area.

All Government Employees deployed for election duty shall attend the same.

For smooth conduct of polls with respect to the polling stations set up in Government Offices and Schools, a decision may be taken by the respective Returning Officer to declare Holiday on 11/05/2018 and also in view of counting on 15/05/2018.

By Order and in the name of the  
Governor of Karnataka,

  
(Dr. Nanjundegowda)  
Under Secretary to Govt.  
DPAR(State Protocol)

**To :** The Compiler, Karnataka Gazette, Government press, Bengaluru for Publication in the Gazette and to supply 250 copies.

**Copy to:**

- 1) The Accountant General, Karnataka, Bangalore.
- 2) Chief Secretary to Government, Vidhana Soudha, Bangalore
- 3) Additional Chief Secretary to Government, Vidhana Soudha, Bangalore
- 4) Additional Chief Secretary and Development Commissioner, Vidhana Soudha, Bangalore
- 5) Additional Chief Secretaries.
- 6) All Principal Secretaries / Secretaries.
- 7) Principal Secretary to Governor, Raj Bhavan, Bengaluru.
- 8) Principal Secretary to Chief Minister 1 and 2, Vidhana Soudha.
- 9) The Chief Electoral Officer, Bengaluru.
- 10) All Regional Commissioners.
- 11) All Deputy Commissioners.
- 12) All Heads of Departments.