

Controversy around Art 35A

Why in news?

\n\n

The Supreme Court is hearing a PIL petition challenging the constitutional validity of Article 35A.

\n\n

What is the controversy in Art 35A?

\n\n

\n

- Article 35A allows the Jammu and Kashmir legislature to define the list of **'permanent residents'** of the state, who -

\n

\n\n

\n

1. are eligible to vote
2. can work for the state government
3. can own land, buy property
4. can secure public employment and college admissions, etc.

\n

\n\n

\n

- Non-permanent residents are denied all these rights.
- This article is being challenged on the ground of **gender discrimination**.
- This is because a male resident will not lose the right of being a permanent resident even after marriage to a woman from outside.
- A woman from outside the state shall become a permanent resident on marrying a male permanent resident of the state.

\n

- However, a daughter who is born state subject of J&K will lose the right of being a permanent resident on marrying an outsider.
\n
- It discriminates against women who marry outside the State from applying for jobs or buying property.
\n
- This is said to be **against the spirit of Article 14** of the Constitution which provides for equality before the law and the equal protection of the laws.
\n

\n\n

Why is the case significant?

\n\n

- Art 35A was added to the constitution through the Constitution (Application to Jammu and Kashmir) Order, 1954, a presidential order not yet ratified by the Parliament.
\n
- It is being challenged that the provision was “unconstitutional” and approved without any debate in the parliament.
\n
- The J&K government sees **Art 35A** as offering the **state a special position**.
\n
- On the other hand, the Centre differs on the grounds that it discriminates against women and is calling for a larger debate.
\n
- The issue is now getting a **political** tone leading to tensions between the state and the central government.
\n
- There are also apprehensions that any adverse order against the provision could give the state's **separatists** a chance to stir up **violence in the state**.
\n
- It is high time that the governments place the **rights and privileges of the people** of the state above political motives and deal it accordingly.
\n

\n\n

\n\n

Source: The Hindu

\n



SHANKAR
IAS PARLIAMENT
Information is Empowering