Constitution Bench on Personal Laws

What is the issue?

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Constitution Bench of the Supreme Court is scheduled to hear petitions challenging whether personal law practices like triple talaq and polygamy violate the constitutional rights of Muslim women.

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What is the case about?

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- In this case, the Centre has sought to re-open the debate as to **whether personal laws can be brought under the ambit of Article 13** i.e., laws inconsistent with or in derogation of the fundamental rights of the Constitution.
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- If the Supreme Court agrees that personal laws are to be included under **Article 13,** then an aggrieved person can challenge a particular personal law of a religion as violative of the fundamental rights and make it void.
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- The Centre has also asked SC to determine whether the triple talaq, nikah halala and polygamy are protected under the **freedom of religion under Article 25.**
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- The Centre has argued that polygamy and triple talaq are not religious practices but social norms and customs which can be intervened on by the State if they are found to be violative of constitutional rights.
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What is the precedence?

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- The courts have in past made **conflicting notes** about the immunity enjoyed

by personal laws.
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- The Bombay High Court held that personal law is not ‘law’ under Article 13.
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- Supreme Court rejected to consider if unilateral divorce by talaq and polygamy were violative of Articles 14 and 15, saying it was for the legislature to determine.
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- In December 2016, the Allahabad High Court had observed in a case that triple talaq was “cruel” and judicial conscience was “disturbed.”
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Source: The Hindu

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