Controversy around Art 35A

Why in news?

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

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What is the controversy in Art 35A?

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- Article 35A allows the Jammu and Kashmir legislature to define the list of **'permanent residents'** of the state, who -
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1. are eligible to vote
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2. can work for the state government
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3. can own land, buy property
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4. can secure public employment and college admissions, etc.
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- Non-permanent residents are denied all these rights.
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- This article is being challenged on the ground of **gender discrimination.**
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- This is because a male resident will not lose the right of being a permanent resident even after marriage to a woman from outside.
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- A woman from outside the state shall became a permanent resident on marrying a male permanent resident of the state.
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- However, a daughter who is born state subject of J&K will loss the right of being a permanent resident on marrying an outsider.
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- It discriminates against women who marry outside the State from applying for jobs or buying property.
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- 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.
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Why is the case significant?

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- 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.
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- It is being challenged that the provision was “unconstitutional” and approved without any debate in the parliament.
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- The J&K government sees **Art 35A** as offering the **state a special position.**
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- On the other hand, the Centre differs on the grounds that it discriminates against women and is calling for a larger debate.
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- The issue is now getting a **political** tone leading to tensions between the state and the central government.
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- 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.**
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- 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.
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Source: The Hindu

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