Jammu & Kashmir Resettlement Law

Why in news?

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The “Jammu & Kashmir resettlement law” was challenged and the Supreme Court is soon to hear it.

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What is the law about?

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- It is the Jammu & Kashmir Grant of Permit for Resettlement in (or Permanent Return to) the State Act, 1982.
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- It was passed by the Assembly to provide for regulation of procedure for grant of permit for resettlement.
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- This is in terms of permanent residents and their descendants who had migrated to Pakistan between March 1, 1947 and May 14, 1954.
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What was the objective?

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- Mass killing of Muslims in Jammu in 1947 and its ramifications are the main reason why the law was introduced.
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- As per historical references, more or less the entire Muslim population, amounting to half a million people, was displaced.
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- Muslims were said to have been systematically exterminated unless they escaped to Pakistan along the border.
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- It was done by the forces of the Dogra State headed by the Maharaja.
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- The State Government thus passed the Bill under the terms of Section 6 of the J&K Constitution.
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- This has a provision for those who were stuck in areas that became Pakistan in 1947.
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- Under the provision, these people can return under a resettlement law enacted by the state legislature.
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- The Indian Constitution’s Articles 5 and 7 too permit it.
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- There is a provision that those who migrated to Pakistan can return under a law of the legislature.
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What is the controversy?

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- The Bill was introduced in March, 1980 by National Conference (NC) leader Abdul Rahim Rather and became law in October, 1982.
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- It pitted the NC government against the then Congress government at the Centre.
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- Both Houses of the state legislature passed the Bill in April 1982 but Governor B K Nehru returned it for reconsideration.
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- Amid the Congress’s opposition, the Bill was again passed by both Houses, and this time the Governor gave assent.
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- But then President Giani Zail Singh had already sent a presidential reference to the Supreme Court seeking its opinion on the law’s constitutional validity.
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- The case remained pending for almost two decades until November, 2001.
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- After this, a five-member Constitution Bench returned it unanswered.
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- Later, Jammu-based Panthers Party challenged the law in the SC.
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Why was it challenged?

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- Panthers Party founder Bhim Singh, a lawyer, has represented the party challenge in the SC since 2002.
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- He highlighted a security threat the state would face if the Bill is cleared.
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- He noted that in Pakistan, it was mandatory for everybody to undergo two months' military training before taking up any job.
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- So through this law, Jammu would be inviting trained Pakistani soldiers.
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- Apart from this, those people on return will reclaim property including agricultural land allotted to refugees from Pakistan-occupied Kashmir.
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- This is more likely to lead to law and order problems in the State.
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Source: Indian Express

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