Menstrual Hygiene – A Fundamental Right

Mains: *GS II – Health*

Why in News?

In a historic judgment, the Supreme Court of India has ruled that access to menstrual hygiene is not just a health issue but a constitutional right, fundamental to ensuring gender equality and the right to education.

What is menstrual hygiene Management?

- **MHM** – Menstrual Hygiene Management (MHM) is the practice of using clean, absorbent materials to manage menstrual blood flow, with the ability to change them in privacy as often as needed.
- It includes access to clean water, soap for washing, and safe, private disposal methods.
- Proper MHM reduces infections, stigma, and school/work dropout.

- **Menstrual Hygiene as a Constitutional Right –** The Supreme Court's ruling is grounded in the *principle of substantive equality*, a concept that acknowledges that equal treatment does not always lead to fair or just outcomes, especially for marginalized groups.
- Article 14 of the Indian Constitution guarantees equality before the law, but the court observed that simply treating everyone the same can perpetuate existing inequalities.
- **Absence of hygiene facilities** – The absence of adequate menstrual hygiene facilities disproportionately affects girl children, preventing them from attending school and thus entrenching gendered disadvantage.
- The court emphasized that menstruation should not be a barrier to a girl's education.
- As the bench stated, "*A period should end a sentence – not a girl's education.*"
- **Inequality** – In its judgment, the court asserted that menstruating girls who are denied access to sanitary products or proper toilets are not on an equal footing with their male counterparts.
- **Inaccessibility** – The inaccessibility of Menstrual Hygiene Management (MHM) measures transforms a biological reality into a structural exclusion, reinforcing gender inequality in educational settings.
- **Scope of Article 21** – The court further held that menstrual health falls under the right to life and personal liberty guaranteed by *Article 21* of the Constitution.
- The right to life, as interpreted by the court, *includes the right to live with dignity.*

For menstruating girls, the lack of proper MHM measures subjects them to stigma, humiliation, and the violation of their bodily autonomy.

Forcing a student to drop out or miss school due to lack of menstrual hygiene facilities, the court observed, violates her right to privacy and dignity.

- **Interpreting the Right to Education Act –** The judgment also reinterprets the Right of Children to Free and Compulsory Education Act, 2009 (RTE Act), with a focus on menstrual health.
    - **Section 3** – Under this Section, the right to "free education" is not limited to waiving tuition fees, but extends to the removal of any barriers—financial or infrastructural—that hinder a child's ability to complete their education.
- The court reasoned that when the absence of sanitary napkins or menstrual hygiene facilities leads to absenteeism or dropouts, it turns the right to education into a conditional one.
    - **Section 19** - The court highlighted that this section of the RTE Act mandates that schools adhere to specific norms and standards, which include maintaining separate toilets for boys and girls.
- However, the court emphasized that this requirement is not just about infrastructure; it is a substantive right that ensures equal educational opportunities for both boys and girls.
- Without proper access to sanitary products or hygienic toilets, girls are more likely to miss school, exacerbating gender-based educational disparities.
- Therefore, the lack of menstrual hygiene facilities in schools amounts to a "stark constitutional failure," according to the court.

What are the directions to the state?

- **Provision of Free Sanitary Napkins –** The court ordered that all schools, whether government-run or privately managed, must provide sanitary napkins free of charge to girl students.
- These sanitary napkins should be eco-friendly and oxo-biodegradable to ensure environmental sustainability.
- The preferred method of distribution is through vending machines located within toilet premises or through a designated authority within the school.
- **Hygienic Disposal Mechanisms –** Schools are required to establish safe, hygienic, and environmentally compliant systems for disposing of sanitary napkins.
- The court emphasized the need for covered waste bins that are cleaned regularly, ensuring that waste disposal does not become another barrier to menstrual hygiene.
- **Functional and Accessible Toilets –** The judgment directed that all schools, both urban and rural, must have functional, gender-segregated toilets with water connectivity.
- Toilets must be designed to ensure privacy and be accessible to children with disabilities.
- The facilities must also include functional hand-washing stations with soap and water available at all times, ensuring that menstruating students can maintain their hygiene.
- **Menstrual Hygiene Management Corners –** Schools are to set up dedicated "Menstrual Hygiene Management corners," equipped with essential items such as spare innerwear, spare uniforms, and disposable bags.

- These corners will ensure that menstruating students have access to the necessary resources to manage their periods without having to leave school due to leakage or staining.
- **Destigmatizing Menstruation –** One of the most important aspects of the court's ruling is the emphasis on destigmatizing menstruation.
- The court observed that a "hostile and stigmatized environment" in schools can render the infrastructure useless.
- To address this, the court directed that boys be educated about menstruation and its biological realities.
- This would ensure that menstruating girls are not subjected to harassment, which could discourage them from attending school.
- **Teacher Training and Gender-Responsive Curricula –** The court mandated that the National Council of Educational Research and Training (NCERT) and State Council of Educational Research and Training (SCERT) incorporate gender-responsive curricula, focusing on puberty and menstruation.
- Additionally, teachers, both male and female, must undergo training to provide the necessary support to menstruating students.
- **Inspection and Feedback Mechanism –** The court directed District Education Officers (DEOs) to conduct regular inspections of schools, preferably once a year, to assess compliance with the new guidelines.
- The DEOs are also required to obtain anonymous feedback from students through surveys, allowing them to evaluate the reality of the menstrual hygiene facilities in schools.

What are the impacts on gender equality?

- **Education** – The Supreme Court's judgment highlights the critical role of menstrual hygiene in promoting gender equality in education.
- **Dignity** – The court has not only provided a solution to a practical problem but has also reaffirmed the importance of dignity and autonomy for menstruating students.
- **Inclusiveness** – By ensuring that menstrual hygiene is recognized as a fundamental right, the court has paved the way for a more inclusive and equitable educational environment for all children, regardless of gender.
- **Breaking the stereotypes** –The court's directive on educating boys about menstruation is particularly significant in challenging deep-rooted social taboos and stereotypes.
- It signals a move toward creating a more supportive, respectful environment for menstruating girls, free from discrimination and shame.

What lies ahead?

- The Supreme Court's landmark verdict recognizing menstrual hygiene as a fundamental right represents a significant step toward eliminating barriers that prevent girls from accessing education.
- It underscores the importance of equal opportunities in education, regardless of gender, and reinforces the constitutional mandate of dignity and equality.
- With clear directives to the government and educational institutions, this judgment has

the potential to transform the educational landscape for girls across the country, ensuring that menstruation no longer becomes a reason for their exclusion or dropout from school.

Reference

The Indian Express| Menstrual hygiene as FR

