Shah Bano case, 1985

Prelims: *Current events of national and international importance | Polity & Governance*

Why in news?

The Bollywood film 'Haq', set to be released on November 7 and starring Yami Gautam and Emraan Hashmi, is inspired by the 1985 Shah Bano case.

- **Background –** Shah Bano Begum, a 62-year-old Muslim woman from Indore, was divorced by her husband, Mohd. Ahmed Khan, after 43 years of marriage.
- She filed a petition under **Section 125 of the Criminal Procedure Code (CrPC),** which mandates maintenance for wives unable to support themselves, regardless of religion.
- **Supreme Court (SC) Verdict (1985)**
  - The SC ruled ***in favor of Shah Bano***, Section 125 of the CrPC is a **secular provision** that applies to all citizens irrespective of their religion.
  - Its purpose is to prevent destitution, and Muslim women ***cannot be excluded*** from its protection.
  - Emphasized that Muslim Personal Law (Shariat) does not prohibit maintenance for divorced women unable to support themselves.
  - Invoked Article 44, advocating for a Uniform Civil Code (UCC) to ensure legal equality across religions.
- **Opposition to judgment –** The verdict triggered intense backlash from conservative Muslim groups, who viewed it as interference in religious laws.
  - In response, the Rajiv Gandhi government passed the ***Muslim Women (Protection of Rights on Divorce) Act, 1986***.
  - It diluted the Supreme Court ruling by limiting maintenance to the iddat period (waiting period of 3 months post-divorce, during which a woman cannot remarry).
- **Challenge to the 1986 Act –**

    - ***Danial Latifi Case (2001)*** – The SC preserved the spirit of Shah Bano judgment while retaining the 1986 Act.
    - Focused on **Section 3(1)(a) of 1986 act** stated that husband must make a "reasonable and fair provision and maintenance" within the iddat period.
    - The court interpreted it liberally to protect women's rights—make a ***one-time payment to cover the woman's entire future needs***, not just 3 months.
- **Mohd. Abdul Samad v State of Telangana (2024)**
    - **Question –** Unclear whether Muslim women could still seek maintenance under Section 125 of CrPC, or were restricted to the 1986 Act.
    - The court ruled that the 1986 Act is ***not a substitute*** for CrPC Section 125.
    - **Clarified –** A divorced Muslim woman can choose either law or both for claiming maintenance and has the option to seek a remedy.

Reference

Indian Express | Shah Bano case