The Abortion law

Why in news?

The Supreme Court has put unmarried women on an equal footing in availing of abortion services.

What is the Medical Termination of Pregnancy Act, 1971?

- The Medical Termination of Pregnancy Act, 1971 and its Rules, 2003, prohibit unmarried women who are between 20 weeks and 24 weeks pregnant to terminate the pregnancy.
- The act defines a guardian as a person taking care of a minor or person of unsound mind.
- Registered medical practitioner are those whose name is registered in the State Medical Register and they should have experience or training in gynecology and obstetrics.

When can pregnancies be terminated according to the law?

- A pregnancy may be terminated by a registered medical practitioner:
  - Where the length of the pregnancy does not exceed 12 weeks,
  - Where the length of the pregnancy exceeds 12 weeks but does not exceed 20 weeks,
  - if not less than 2 registered medical practitioners are, of opinion, formed in good faith, that:
    - the continuance of the pregnancy would involve a risk to the life of the pregnant woman.
    - if the child were born, it would suffer from such physical or mental abnormalities.

Where can the pregnancy be terminated?

- No termination of pregnancy shall be made in accordance with this Act at any place other than:
  - A hospital established or maintained by Government, or
  - A place for the time being approved for the purpose of this Act by the Government.

What has been the court's ruling?

- The Supreme Court's move to set right a rule that was manifestly arbitrary and violative of women's right to bodily dignity fits right into the concept of justice that is

free.

- The judgment is welcomed and considered to be without any prejudice or favor to any person or group of people.
- Earlier, the apex court in its wisdom facilitated the abortion (beyond 20 weeks) of a young unmarried woman whose partner parted ways after realizing she was pregnant.
- The Court's ruling might have meant relief for one woman who had to go all the way to the top court of the land in order to access what seven other categories of women would have been able to do without legal hassles.
- While the judgment could have been cited in support of other women in a similar situation, the law retained its flaw.
- Others would still have had to take the long legal route and wait upon the discretion of individual judges.
- Utilizing the full, expansive reach of its powers, the Supreme Court has decided to correct the anomaly.
- A Bench Comprising Justices D.Y. Chandrachud and J.B. Pardiwala is considering pronouncing a judgment that would make access to medical abortion a level-playing field.
- The Court's argument pierced the heart of iniquity in the law.
- The court observed, that if a married woman had access to abortion facilities during the same period, then why should an unmarried woman be prevented from using these services?
- The court exhorted the Government to have a forward-looking interpretation of the law.
- The Bench pointed out that the **rules mentioned 'partner' and not a husband**.

What is the way forward?

- At a time when the United States Supreme Court's recent ruling overturning Roe Vs Wade has drawn that nation back several decades on the abortion question, India's apex court's move stands out in sharp contrast.
- It is the surest example of the Court's willingness to be modern and progressive, in order to remove antediluvian inconsistencies in existing laws.
- It is also in the full spirit of Article 14 of the Constitution that guarantees to all people equality before the law and equal protection of laws.
- However, the law cannot cherry-pick beneficiaries, and if there is to be any justice at all, it cannot continue to frustrate young women who claim autonomy of their own bodies.

Reference:

https://www.thehindu.com/opinion/editorial/a-law-without-a-flaw-on-availing-abortion-services/article65747018.ece



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