Doctrine of Essentiality - Babri Masjid Case

Why in news?

The Supreme Court has by a majority of 2-1 refused to refer for reconsideration of judgment in Dr M Ismail Faruqui and Ors vs. Union of India and Ors, 1994.

What is the issue?

- Supreme Court refused to refer some questions of law in the Ram Janmabhoomi-Babri Masjid dispute to a larger seven-judge Bench.
- It will expedite the final hearing in the appeals against the Allahabad High Court's compromise judgment of 2010 in the main title suit.

What is Dr M Ismail Faruqui case?

- Ismail Faruqui case was a ruling on petitions challenging the validity of a Central law that acquired the land on which the Babri Masjid stood.
- Instead of settling the issue in favour of the state by relying on the principle of eminent domain, the court chose Doctrine of essentiality.
- Principle of eminent domain means that the government can acquire any land.
- Based upon doctrine of essentiality court went into the question of whether praying in a mosque is an essential practice of Islam.
- The court held that while offering of prayers is an essential practice, the offering of such prayers in the mosque is not, unless the place has a particular religious significance in itself.
- The apex court in this case didn't look at Islamic sources before deciding the essentiality of the mosque.
- The judgement in this case upheld the Acquisition of Certain Area at Ayodhya Act, 1993.
- Under this act the Centre acquired the disputed land in Ayodhya on which the Babri Masjid had stood.

What is 'doctrine of essentiality'?

- A seven-judge Bench of the Supreme Court invented the doctrine of "essentiality" in the Shirur Mutt case in 1954.
- The court held that the term "religion" will cover all rituals and practices "integral" to a religion.
- It took upon itself the responsibility of determining the essential and non-essential practices of a religion.
- The essentiality/integrality doctrine has tended to lead the court into an area that is beyond its competence.
- It has also given judges the power to decide purely religious questions.

What does the Supreme Court's judgement implies?

- The recent majority verdict has clarified that the observation in Ismail Faruqui will have no bearing on the title suit of appeal against the Allahabad High Court judgment.
- However, by refusing review, the court has refused to examine whether essentiality of any practice of any religion can be decided without examining the religious texts of that religion.
- It has also refused to consider the question of whether the freedom of religion protects only practices of particular significance, and not all religious practices.
- The question of comparative significance of religious practices also remains untouched.

Source: The Indian Express

