

# Places of Worship Act

March 27, 2021

The Places of Worship Act 1991 effectively barred courts from entertaining cases which raise disputes over places of worship that existed as of August 15, 1947. While invoking this exemption, the Supreme Court in the 2019 Ayodhya verdict reaffirmed that similar such cases cannot be entertained with respect to other sites in view of this Act. Now, the Supreme Court has asked the Centre to respond to a plea challenging the Places of Worship (Special Provisions) Act, 1991. The court has opened the doors for litigation in various places of worship across the country.

**In news:** SC agrees to examine validity of Places of Worship Act

**Placing it in syllabus:** Law & Policy

**Dimensions**

- What is the Petition About?
- SC position on it
- Provisions of Places of Worship Act
- How does the Petition Violate Ayodhya Judgement ?
- Consequences

## Content:

### What is the Petition About?

- A plea filed by BJP leader and advocate Ashwini Kumar Upadhyay in the Supreme Court against various provisions of the Places of Worship (Special Provisions) Act of 1991.
- The challenge to the Act questions the legality of the prohibition it imposes on any community laying claim to the places of worship of another.
- A petition pleads that the Places of Worship Act 1991 is

“arbitrary, irrational and retrospective”.

- The petition has challenged the law on the ground that sections of the Act that dealt with the **bar on legal claims violate secularism**.
- It is also argued that the cut-off date of August 15, 1947, is “arbitrary, irrational and retrospective” and prohibits Hindus, Jains, Buddhists, and Sikhs from approaching courts to “reclaim” their places of worship.
- It amounts to **taking away the right of the people to seek justice** through the courts and **obtain a judicial remedy**.
- The petition claims that such places were “invaded” and “encroached” upon by “fundamentalist barbaric invaders”.
- The petition contends that the **legislation legalises the actions of invaders in the past** who demolished places of worship. It wonders how the law could exempt the birthplace of Ram, but not that of Krishna.
- The petition claims that Section 2,3 and 4 of the Act:
  - offend right to pray, practice and propagate religion (**Article 25**),
  - right to manage maintain administer places of worship-pilgrimage (**Article 26**),
  - right to conserve culture (**Article 29**)
  - contrary to State’s duty to protect historic places (**Article 49**) and preserve religious cultural heritage (**Article 51A**)

The right-wing politicians have opposed the law even when it was introduced, arguing that the Centre has no power to legislate on “pilgrimages” or “burial grounds” which is under the state list.

Another criticism against the law is that the cut-off is the date of Independence, which means that the status quo determined by a colonial power is considered final.

**Supreme Court’s Position on it**

- The Supreme Court has asked the central government to respond to a plea challenging the special law.
- In the 2019 Ayodhya verdict, the Constitution Bench referred to the law and said it manifests the secular values of the Constitution and strictly prohibits retrogression.
- In its final verdict on the Ayodhya dispute, the Supreme Court had observed that the Act “imposes a non-derogable obligation towards enforcing our commitment to secularism”.
- The court went on to say: “Non-retrogression is a foundational feature of the fundamental constitutional principles, of which secularism is a core component.”

## **Provisions of Places of Worship Act**

The Places of Worship (Special Provisions) Act, 1991 passed by the P V Narasimha Rao-led Congress government.

It seeks to maintain the “religious character” of places of worship as it was in 1947 – except in the case of Ram Janmabhoomi-Babri Masjid dispute, which was already in court.

The law was brought in at the peak of the Ram Mandir movement, exactly a year before the demolition of the Babri Masjid. The law was enacted to curb communal tension in those times.

### **Key Provisions:**

- It provides for the maintenance of the religious character of any place of worship as it existed on the 15th day of August 1947, and for matters connected therewith or incidental thereto
- Sections 3 and 4 of the Act declared that the religious character of a place of worship shall continue to be the same as it was on August 15, 1947.
- No person shall convert any place of worship of any religious denomination into one of a different denomination or section.

- All suits, appeals or any other proceedings regarding converting the character of a place of worship, which are pending before any court or authority on August 15, 1947, will abate as soon as the law comes into force. No further legal proceedings can be instituted.
- However, legal proceedings can be initiated after the commencement of the Act if the change of status took place after the cut-off date of August 15, 1947.

**Exceptions: These provisions will not apply to:**

- Ancient and historical monuments and archaeological sites and remains that are covered by the Ancient Monuments and Archaeological Sites and Remains Act, 1958.
- A suit that has been finally settled or disposed of; and any dispute that has been settled by the parties or conversion of any place that took place by acquiescence before the Act commenced.
- The Act also does not apply to the place of worship commonly referred to as Ram Janmabhoomi-Babri Masjid in Ayodhya. This law will have an overriding effect over any other law in force.

## **How does the Petition Violate Ayodhya Judgement ?**

- In the 2019 Ayodhya verdict, the Constitution Bench led by former CJI Ranjan Gogoi referred to the law and said **it manifests the secular values of the Constitution** and strictly prohibits retrogression.
- The court described the law as one that preserved secularism by not permitting the status of a place of worship to be altered after Independence.
- In words of caution against further attempts to change the character of a place of worship, the five-judge Bench said, "Historical wrongs cannot be remedied by the people taking the law in their own hands."
- In preserving the character of places of public worship,

Parliament has mandated in no uncertain terms that history and its wrongs shall not be used as instruments to oppress the present and the future.”

- The law addresses itself to the State as much as to every citizen of the nation. Its norms bind those who govern the affairs of the nation at every level.
- Those norms implement the Fundamental Duties under Article 51A and are hence positive mandates to every citizen as well.
- The present petition has challenged the law on the ground that violates secularism, which is in contravention to the apex court’s observation in Ayodhya Verdict.

## Consequences

- By asking the Centre to respond to a plea, the Supreme Court has opened the doors for litigation in various places of worship across the country including Mathura and Varanasi.
- Civil suits have been filed in a Mathura court seeking the shifting of the 17th-century mosque from the spot that some claim is the birthplace of Lord Krishna.
- Any order that strikes down or dilutes the 1991 law on the status of places of worship is likely to influence the outcome of such proceedings.

### **Status of Varanasi and Mathura Disputes:**

When the Babri Masjid-Ram Janmabhoomi dispute was at its height, in the early 1990s, the Vishwa Hindu Parishad (VHP) and other Hindu organisations also laid claim to two other mosques – the **Gyanvapi mosque** in Varanasi and the **Shahi Idgah** in Mathura.

A district court in Varanasi had entertained a civil suit by a temple trust claiming the site of the **Gyanvapi Mosque** in the holy city, but the order has been challenged in the Allahabad

High Court, citing the statutory bar on such suits that seek to alter the places of worship. The matter is still pending.

The **Shahi Idgah** in proximity to the Krishna temple in Mathura is the subject of an agreement between the Krishna Janmabhumi Sanstha and the Idgah Committee, under which the land belongs to the former and the management is with the latter.

**Mould your thought:** SC notice to the Centre on the Places of Worship Act could lead to reopening of closed issues and scraping of old wounds. Evaluate.

***Approach to the answer:***

- Introduction
- Discuss the background and provisions of the Act
- Discuss the Sc observation on the Act in Ayodhya Verdict
- Discuss the consequences of reviewing the validity
- Conclusion