



# IAS PARLIAMENT

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## Act of Colourable Legislation

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### Why in news?

Recently PIL challenging the provisions of the Places of Worship Act, 1991 was filed in the Supreme Court.

### What is the PIL about?

- It says that the act of 1991 is against the fundamental rights enshrined in the Constitution since it bars the jurisdiction of the Supreme Court.
- It nullifies the fundamental rights guaranteed by the Constitution of India as explained in Article 32.
- Article 32 states that enforcement of fundamental rights cannot be suspended except as otherwise stated in the Constitution.

### Why Article 32 is important?

- Earlier B.R. Ambedkar asserted that Article 32 is the very soul of the Constitution and the most important Article in the Constitution.
- It is under this article Supreme Court issues writs for appropriate enforcement of all the fundamental rights conferred by Part III of the Constitution.
- On various instances, the apex court ruled that the power of judicial review is an integral part of the basic structure of the Constitution.
- It also said that no act of Parliament can exclude or curtail the powers of the Constitutional Courts with regard to the enforcement of fundamental rights.
- Therefore the Act of 1991 is appropriately called an Act of colourable legislation and court held that “you cannot do indirectly which you are prohibited from doing directly”.

### What are the other provisions the act weakens?

- The Preamble in the Constitution gives prominent importance to liberty of

belief, faith and worship to all citizens and the act has weakened, effectively nullified and severely damaged it.

- The concepts of faith, belief and worship are the foundations of Articles 25 and 26 of the Constitution of India.
- Therefore, prohibiting citizens from approaching appropriate courts to handover the land of any temple of certain essential significance is arbitrary and unreasonable.
- It goes against the fundamental rights to pray and perform religious practice as guaranteed by Articles 25 and 26 of the Constitution of India.

**Source: The Hindu**



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