Syllabus subtopic: Indian Constitution- historical underpinnings, evolution, features, amendments, significant provisions and basic structure

Prelims and Mains focus: about various judgements cited and their significance

News: The dozen or so petitions filed against the Citizenship (Amendment) Act, 2019, trace a series of Supreme Court judgments in which the court stood up for the dignity of the individual against the “tyranny of the majority”.

What do these judgements say?

These Constitution Bench judgments, which range from the decriminalisation of homosexuality to striking down triple talaq, hold that the State cannot discriminate on the basis of an intrinsic and core identity of an individual. Being Muslim is part of a person’s core identity and dignity. It cannot be the basis for discrimination for granting citizenship, they argue.

1. The Constitution Bench judgment in the petition filed by the Delhi government — State (NCT of Delhi) v. Union of India — said the court should follow its constitutional morality to check State power and the “tyranny of the majority”.

2. Another Constitution Bench in the Navtej Singh Johar case (decriminalisation of homosexuality) upheld the concept of “identity with dignity”.

“Destruction of individual identity would tantamount to crushing of intrinsic dignity that cumulatively encapsulates the values of privacy, choice, freedom of speech and other expressions,” the Constitution Bench held.

It reminded that religion, race, caste, sex or place of birth were intrinsic and core elements of an individual’s identity under Article 15.

3. If at all the state ventures to classify people on the basis of religion, it should be reasonable, based on intelligible differentia and have a rational basis with the objective sought to be achieved by the law, the petitions argued, quoting the Anwar Ali Sarkar verdict reported in 1952.

They contend that the amendments classify illegal migrants from Pakistan, Afghanistan and Bangladesh as those who are Hindu, Sikh, Buddhist, Jain, Parsi or Christian on one side, and those who are Muslim on the other.
amendments provide benefits to illegal migrants who practise any of the six faiths and excludes Muslims.

4. The Constitution Bench in the **S.R. Bommai judgment** lays down that the State cannot favour any particular religion. It is the government’s duty to accord equal treatment to members of all faiths.

5. A Constitution Bench in its **Shayara Bano (triple talaq case)** held that a legislation which is manifestly arbitrary, capricious, irrational, excessive or disproportionate should be struck down.