News: The Supreme Court has referred to a 7 judge-bench a clutch of review petitions challenging its September 2018 verdict allowing entry of women of all age groups into the Sabarimala temple.

Prelims focus: About the case and the Sabarimala temple

Mains focus: Concerns and challenges, and SC observations

Background:

- The verdict was given by a 5-judge bench.
- In 3:2 majority verdict, two judges stuck to their earlier stand of quashing the custom which barred entry of women between the ages of 10 and 50 years. The split decision came on 65 petitions – 56 review petitions, four fresh writ petitions and five transfer pleas – which were filed after the apex court verdict of September 28, 2018 sparked violent protests in Kerala.

Observations made by the court:

1. Restrictions on women in religious places are not limited to Sabarimala alone and are prevalent in other religions too. **The issue of entry of women into mosques and Agiyari could also be taken by the larger bench.**
2. Both sections of the same religious group have a right to freely profess, practise and propagate their religious beliefs as being integral part of their religion by virtue of **Article 25** of the Constitution of India.

Questions before the larger bench:

1. Whether a court can probe if a practice is essential to a religion or should the question be left to the respective religious head?
2. Should “essential religious practices” be afforded constitutional protection under Article 26 (freedom to manage religious affairs)?
3. What is the “permissible extent” of judicial recognition a court should give to PILs filed by people who do not belong to the religion of which practices are under the scanner?

Constitutional vs Cultural dimensions:

The case has constitutional as well as cultural dimensions. Displaying great cultural sensitivity, a division Bench of the Kerala High Court had, back in 1991, pointed out that “age regulation” in Sabarimala is not unconstitutional.
In Sabarimala, the deity is worshipped in the form of Naishtika Brahmacarior- a celibate, as pointed out by the Kerala High Court.

The supporters of Temple ban say that:

1. This particular deity system is Tantric in nature and not Vedic.
2. In the Tantric system, the temple is not a prayer hall but an energy centre; the deity is not God who is omnipresent, but a source of energy (chaithanya) in a particular spiritual space.
3. Uniqueness is the soul of every temple. Lakhs of women congregate in Sabarimala every year. There is only one limitation: they should not be between 10 and 50, because of the specific nature of the Prathishta(idol) and the vow celibacy associated with the idol.
4. The restriction finds its source in the legend that the Sabarimala temple deity – Swami Ayyappa – is a ‘Naishtika Brahmacari’ – and should not be disturbed.

Why does preventing women’s entry to the temple discriminatory in nature?

Preventing women’s entry to the Sabarimala temple with an irrational and obsolete notion of “purity” clearly offends the **equality clauses in the Constitution**. In any civilised society, gender equality is to be treated as one of the core values.

- It denotes a patriarchal and partisan approach.
- The entry prohibition takes away the woman’s right against discrimination guaranteed under Article 15(1) of the Constitution.
- It curtails her religious freedom assured by **Article 25(1)**.
- Prohibition of women’s entry to the shrine solely on the basis of womanhood and the biological features associated with womanhood is derogatory to women, which Article 51A (e) aims to renounce.
- The classification based on age is an act of discrimination based on sex.

Way ahead:

This issue raises serious questions about faith and practices of a religious denomination or sect. Therefore, it is time to evolve a judicial policy to do substantial and complete justice.