

What is Article 35A? Everything you need to know

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ARTICLE

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New Delhi, Sep 18, 2018 (Issuewire.com) - What is Article 35A? Everything you need to know

There has been a bunch of pleas presented before the supreme court challenging the constitutional validity of the article 35A that grants special rights and privileges to the people of Jammu and Kashmir. After hearing, the apex court indicated that a three-judge tribunal will examine the matter and consider whether it should be referred to a larger bench.

Earlier in Jammu and Kashmir, a million lives were stalled when the separatists called for the complete closure challenging the validity of [Article 35A](#). The protesters pledged to defend the constitutional provision that prohibits women from outside Jammu and Kashmir from acquiring real estate in the state. There were incidents of violence was marked in some parts of the valley as well.

Article 35A was foreseen in 1954 by the then president Rajendra Prasad on the advice of Nehru government.

What is Article 35A?

Article 35A of the Constitution is an article which is part of the legislature of [Jammu and Kashmir](#) where it empowers of the state by providing special rights and privileges to its permanent residents. It was added to the Constitution through a presidential order of 1954 with the help of the then government of Jammu and Kashmir.

Article 35A, often referred to as the law of Permanent Residents, prohibits non-permanent residents of the pre-state in the state, the acquisition of real estate, government jobs, scholarships, and aid. Some interpret the article as discriminatory against Jammu and Kashmir women, since it disqualifies them from their state

property rights if they marry non-permanent residents. But, in a landmark judgement of the apex court in October 2002, it states that the Jammu and Kashmir women married to non-permanent residents, they will not lose their rights.

Though the article 35 A was incorporated into the [Constitution](#) in 1954 by order of the then President Rajendra Prasad with the advice of the Jawaharlal Nehru Cabinet, the controversial Constitution (Application to Jammu and Kashmir) Order of 1954 followed the Delhi Agreement of 1952 between Nehru and the then Prime Minister of Jammu and Kashmir Sheikh Abdullah.

When was the law introduced?

Article 35A was introduced in 1954 through a Constitutional Order by the then President Rajendra Prasad on the counsel of the Nehru government. To roll out any improvements to the constitution or include another law, the procedure recommended by the constitution was to introduce the bill in the Parliament. In any case, under Article 370(1) (d) the President is permitted make exemptions and alterations with the administration of the state to support and for the benefits of the subjects Jammu and Kashmir.

What are the pleas all about?

The primary appeal requests to scrap Article 35A and it was filed before the supreme court in 2014 by Delhi-based NGO 'We the Citizens'. The state government has documented an application to the Supreme Court's registrar, informing him that it is going to seek an adjournment of the hearing of the petition in view of the perspective of the progressing arrangements for the upcoming Panchayat and urban local body elections in the state.

The provision in Article 35A that grants special rights and benefits to the permanent residents appear in the constitution as an appendix. not as an amendment. An RSS-connected NGO, which has moved the Supreme Court requesting to strike down Article 35A which gives uncommon rights and benefits to the Jammu and Kashmir locals, today said it would seek hearing of its plea by a constitutional bench.

Turmoil in Kashmir

Life in Kashmir halted because of a total shutdown called by protesters against the legal challenge in the Supreme Court on the legitimacy of Article 35A, which bars individuals from outside Jammu and Kashmir from getting any steady property in the state. Shops and business foundations were shut over the Valley while a wide range of transport stayed off the streets because of the strike called. The Joint Resistance Leadership (JRL) had required a two-day strike — August 5 and August 6 — as Supreme

Court scheduled to hear a PIL challenging the constitutional validity of the Article 35A.

What is the administration's stand?

The NDA led government has declined to stand by Article 35A. The Attorney General said that the issue is delicate and required a bigger discussion. The former chief minister of Jammu and Kashmir Mehbooba Mufti and Farooq Abdullah have cautioned against the tampering of the law. Mufti even went as far to state that if Article 35A is struck down there will be nobody to hold the tricolour in the state.

Have there been cases against Article 35A?

The [Supreme Court](#) has struck down three cases, requesting the rejecting of Article 35A, which asserted that it must be presented through the procedure recommended by Article 368 i.e. by presenting the bill in the parliament. In the 1961 judgment, the court said that the word modification should be given an extensive importance and meaning with regards to the constitution.

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