

Special Marriage Act 1954

Context:

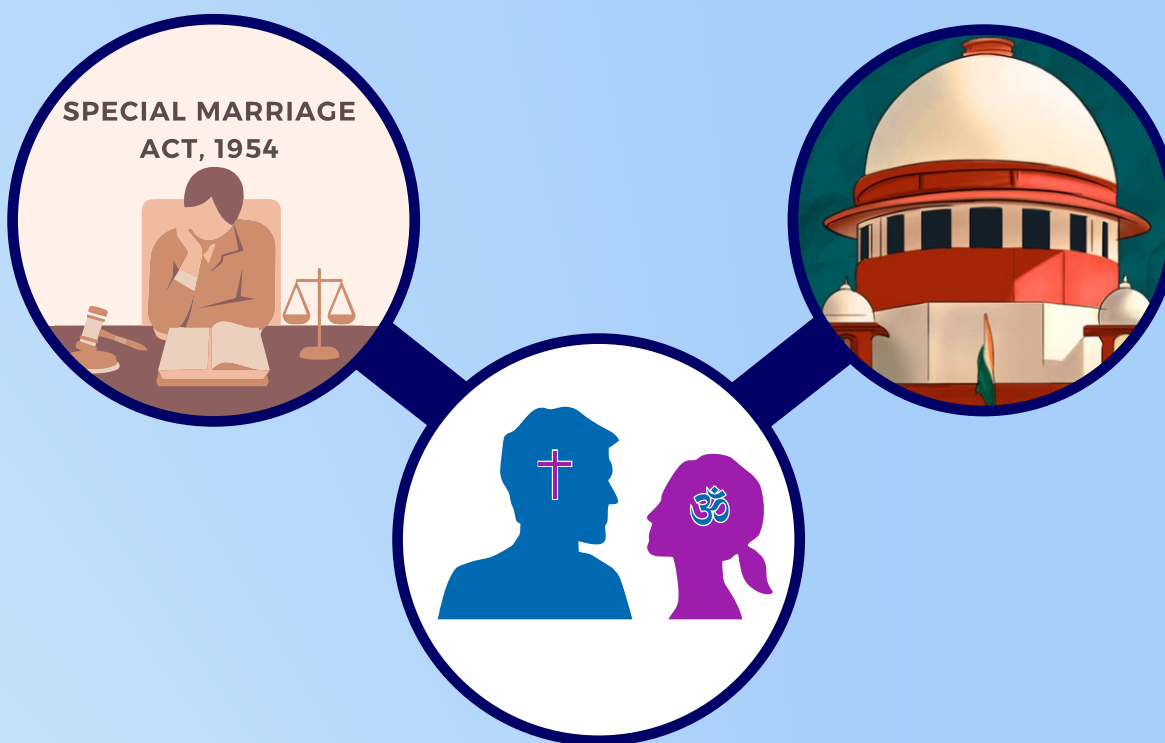
- The Supreme Court rules in a same-sex marriage case that there is no absolute concept of a man or woman.

About the Act:

- It was brought into the Indian legal system in 1954.
- The Act was intended to be a piece of legislation that controls weddings that could not be solemnised due to religious traditions.
- The Act applies to all Indian nationals, whether they live in India or outside.
- The State of Jammu and Kashmir is not included in the scope of this Act, although persons domiciled in other states but residing in Jammu and Kashmir would be eligible for these provisions.

What are the Objectives of the Act?

- The following are the key goals that may be derived from the Act's Preamble:
 - A specific type of marriage,
 - Documentation of certain marriages,
 - Separation.



What is the Purpose of the Act?

- The purpose of the Act is to establish consistent legal measures to protect those who want to marry across castes or religions.
- By establishing a system for inter-faith marriages, the Act serves the interests of all Indian people.
- The Act includes provisions for lawful marriage, prerequisites for a valid marriage, dissolution of an inter-faith marriage, marriage registration, and other regulations.
- The Act also intends to reduce the threat of societal ills such as honor killing and love jihad, as well as to acknowledge the rights of children born out of such marriages.

What are the Elements of the Special Marriage Act, 1954?

- Unlike the previous marriage legislation, this Act applies to all Indian citizens, regardless of religion or caste.
 - As a result, any individual desirous of marrying another individual might do so under the aforementioned Act.
- Since the Act considers marriage to be a legal transaction, no rituals or ceremonies are conducted.
 - The marriage is carried out in accordance with the law i.e, through court marriage.

What is the Applicability of the Act?

- It extends to all Indian states as well as Indian nationals living in other countries.
- The Act applies not only to interreligious or inter-caste marriages or love marriages but also to intra-faith marriages and provides an option to register marriages performed in accordance with the couple's personal laws.
- The Act does not demand the performance of any rituals or ceremonies; rather, the single requirement for being married is two persons having permission

What are the Important Sections of the Act?

- It forbids polygamy and declares a marriage null and void if neither party had a spouse living at the time of the marriage.
- The married partners must be in a sound state of mind. The parties must be able to make their own decisions and be sane at the moment of marriage.
- Both parties to the marriage must have reached the legal age of majority.
- The parties going into marriage should not be in close proximity to one another and should not be in a forbidden connection with each other.

What are the Concerns of the Act?

- The Act was enacted to help interfaith couples. But, the provisions like the need to give prior notice, and inviting 'objections' goes against its original objective and also open the doors to violent moral policing by vigilante groups.
- It did not achieve the kind of success it was intended to achieve; very few marriages get registered under the SMA demonstrating that society is not yet ready to accept interfaith marriage.
- The provisions of public notices under the act have been used by anti-social elements to harass couples getting married.
Suggestions:
 - The provision of a month gap as mentioned in section 5 should be annulled so as to prevent the parties from being harassed.
 - The need for such a provision as mentioned in section 19 is inexplicable especially when such severance could result in deprivation of inheritance and other rights of the couple intending to marry under this so-called secular Act.