

Varanasi court orders ASI survey of Gyanvapi mosque premises

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Why in news?

- The Varanasi court gave directions for a scientific survey of the Gyanvapi mosque premises by the Archaeological Survey of India.
- The survey will exclude the wuzu khana area which was sealed last year on the orders of the Supreme Court.
 - This was after Hindu litigants pointed to the presence there of what they identified as a Shivling.

What is the Archaeological Survey of India (ASI)?

- ASI under the Ministry of Culture is the premier organization for archaeological researches and protection of the cultural heritage of the nation.
 - It was founded in 1861 by Alexander Cunningham.
- Maintenance of ancient monuments and archaeological sites and remains of national importance is the prime concern of the ASI.
- Besides, it regulates all archaeological activities in the country as per the provisions of the **Ancient Monuments and Archaeological Sites and Remains Act, 1958**.
- It also regulates **Antiquities and Art Treasure Act, 1972**.

News Summary: Varanasi court orders ASI survey of Gyanvapi mosque premises

Background:

- **Case filed in Varanasi court**
 - In August 2021, a petition was filed in the Varanasi Court by five Hindu women seeking access to pray at a shrine behind the western wall of the Gyanvapi mosque complex.
 - The court appointed Advocate Commissioner Ajay Kumar Mishra to carry out an inspection of the site, prepare videography of the action and submit a report.
- **Matter goes to SC**
 - The mosque committee challenged this before the Allahabad High Court which dismissed the plea.
 - The committee then approached the Supreme Court, which, in May 2022, directed the protection of the specific area in which the Shivling has reportedly been found, without affecting the right of Muslims to offer prayers in the mosque.
- **Case transferred to district court**
 - In the same judgement, the Supreme Court transferred the case to the District Judge.
 - The SC subsequently said it would intervene only after the District Judge had decided on the preliminary aspects of the case.
- **District Court dismissed the challenge by Masajid Committee**
 - In September 2022, the Varanasi District Court dismissed the challenge by Masajid Committee against the civil suits
 - The civil suits sought the right to worship Maa Shringar Gauri and other deities within the Gyanvapi mosque premises.
 - Maa Shringar Gauri and other visible and invisible deities were being worshipped incessantly till 1993.
 - After 1993, the Uttar Pradesh government restricted the worship to one day a year.

- The district court held that it did not find any law that barred the petitioners from filing such a suit.
- This means that the cases will be heard on merits where the parties have to present evidence to prove their claims.
 - Under the Code of Civil Procedure, in the initial stage, allegations made in a suit must be prima facie accepted without going into the veracity of the claims, unless such a suit is barred by law.
 - Once the suit is accepted, the onus of proving the claims would be on the plaintiffs.
- **Scientific survey of the Gyanvapi mosque**
 - Recently, the district court directed the ASI to conduct a scientific survey of the Gyanvapi mosque located next to the Kashi Vishwanath temple.

Grounds on which Mosque side opposed the suit and the ruling of the district court

- **The Places of Worship Act, 1991**
 - Mosque committee had alleged that the current suit violated Sections 3 and 4 of the Places of Worship Act, 1991.
 - These sections mandated that one cannot tinker with any place of worship which has been **existing and where worship has been performed as on August 15, 1947**.
 - I.e., the religious character of a place of worship existing on the 15 August, 1947 shall continue to be the same as it existed on that day.
 - The Varanasi court said in its order that the Places of Worship Act does not bar the civil suit.
 - It relied on the argument that even after August 15, 1947, the religious character of the Gyanvapi mosque allowed for prayers to Hindu deities.
 - It said that the petitioners have not sought the relief for converting the place of worship from a mosque to a temple.
- **The Wakf Act, 1995**
 - The Muslim side argued that the subject matter of the civil suit is a Wakf property.
 - According to Section 85 of the Act, only the Wakf Tribunal, Lucknow, can decide the suit.
 - But the court said that the suit is not barred by the Wakf Act.
 - The Wakf Act, according to the court, is to solve disputes within the community and not to extinguish claims from outside the community.
- **Kashi Vishwanath Temple Act, 1983:**
 - The Muslim side also challenged the civil suits on the grounds that under this Act, the temple land was clearly demarcated, and that the Board of Trustees appointed under law did not interfere in the case.
 - The court ruled that this Act of 1983 does not specifically bar a suit claiming right to worship idols installed in the endowment within the premises of the temple, or outside.

Q1) What is the Places of Worship Act, 1991?

It is described as “An Act to prohibit conversion of any place of worship and to provide for the maintenance of the religious character of any place of worship as it existed on the 15th day of August 1947, and for matters connected there with or incidental thereto.”

Q2) What is the Ancient Monuments and Archaeological Sites and Remains Act (or AMASR Act)?

The Ancient Monuments and Archaeological Sites and Remains Act (or AMASR Act) is an act of the Parliament of India that provides for the preservation of ancient and historical monuments and archaeological sites and remains of national importance, for the regulation of archaeological excavations and for the protection of sculptures, carvings and other like objects. It was passed in 1958.

Source: [Varanasi court orders ASI survey of Gyanvapi mosque premises](#) | [Archaeological Survey of India](#) | [Indian Culture](#) | [The Hindu](#)

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