

## CIVIL SERVICE DIGEST (CSD-Daily)

*November 27, 2018*

### Challenging of Article 370 accorded to Jammu and Kashmir



- The Supreme Court on Monday declined to entertain a fresh petition challenging Article 370, which gives special autonomous status to Jammu and Kashmir.
- One of the main writ petitions pending is by NGO 'We the Citizens', which challenges the validity of both Article 35A and Article 370.
- It argues that four representatives from Kashmir were part of the Constituent Assembly involved in the drafting of the Constitution and the State of Jammu and Kashmir was never accorded any special status in the Constitution. Article

370 was only a ‘temporary provision’ to help bring normalcy. The Constitution makers did not intend Article 370 to be a tool to bring permanent amendments, like Article 35A, in the Constitution.

- The petition said Article 35A is against the “very spirit of oneness of India”. Restricting citizens from other States from getting employment or buying property in J&K is a violation of their fundamental rights, it said.

### **What is Article 35A?**

- The heading of Article 35A reads: “saving of laws with respect to permanent residents and their rights”.
- The laws granting special rights to permanent residents would not be deemed a violation of the fundamental rights of other citizens.

### **Arguments against Article 35A**

- The ‘classification’ created by Article 35A has to be tested on the principle of equality as it treats non-permanent residents of J&K as ‘second-class’ citizens.
- Such persons are not eligible for employment under the State government and are also debarred from contesting elections.
- Meritorious students are denied scholarships and they cannot even seek redress in any court of law.
- Further, the issues of refugees who migrated to J&K during Partition are still not treated as ‘State subjects’ under the J&K Constitution.
- It was inserted unconstitutionally, bypassing Article 368 which empowers only Parliament to amend the Constitution.
- The laws enacted in pursuance of Article 35A are ultra vires of the fundamental rights conferred by Part III of the Constitution, especially, and not limited to, Articles 14 (right to equality) and 21 (protection of life).

### **Arguments in favour of Legality of Article 35A**

- Article 370 (1) (d) empowers the President of India to extend with requisite exceptions and modifications the other provisions of the Indian Constitution to J&K as may be necessary.
- The Delhi Agreement of 1952 followed Article 370. According to the Clause 2 of the agreement, the State Legislature of J&K was given power to make laws for conferring special rights and privileges on the 'state subjects'.
- Article 35A follows the Instrument of Accession and the guarantee given to the State of J&K that the State's autonomy will not be disturbed.
- Himachal Pradesh and Uttarakhand and such other states also have laws which say that no outsider can buy land.

### **Article 370**

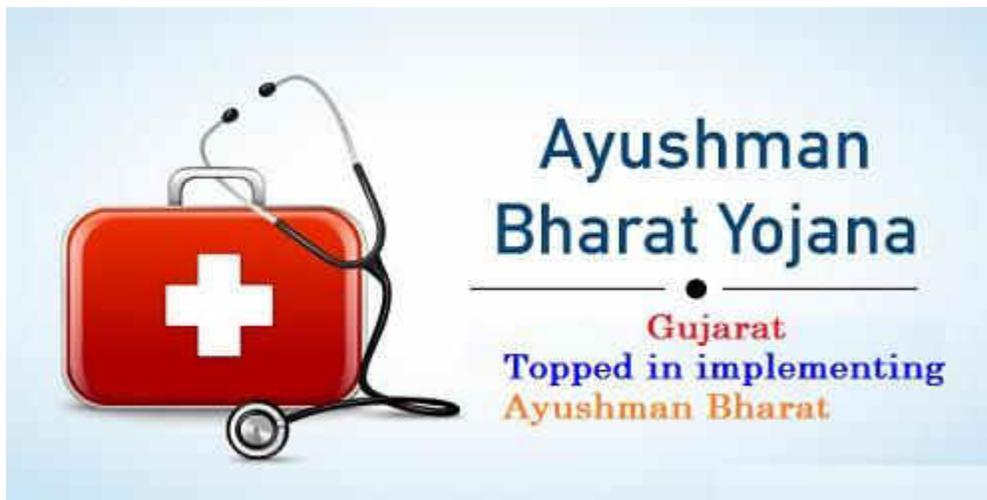
- Article 370 of the Indian constitution is an article that grants special autonomous status to the state of Jammu and Kashmir. The article is drafted in Part XXI of the Constitution, which relates to Temporary, Transitional and Special Provisions.
- The state's constituent assembly was empowered to recommend the articles of the Indian constitution to be applied to the state or to abrogate Article 370 altogether. After the state constituent assembly has dissolved itself without recommending abrogation, Article 370 is deemed to have become a permanent feature of the Indian constitution.
- In the case of Jammu and Kashmir, the representatives to the Constituent Assembly requested that only those provisions of the Indian Constitution that corresponded to the original Instrument of Accession should be applied to the State.
- The Article 370 was incorporated into the Indian Constitution, which stipulated that the other articles of the Constitution that gave powers to the Central

Government would be applied to Jammu and Kashmir only with the concurrence of the State's constituent assembly.

### **Gujarat topped in implementing Ayushman Bharat after 2 months of launch:**

#### **NHA**

On November 25, 2018, according to the **National Health Agency**, after 2 months of launch of **Ayushman Bharat-Pradhan Mantri Jan Arogya Yojana**, **Gujarat** has emerged as the top performer among the states under the scheme.



#### **Highlights:**

- i.** As of November 23, Gujarat accounts for **26%** of the total number of sanctioned hospital admissions under the scheme.
- ii.** Around 76,000 hospital admissions have been cleared in Gujarat since September 23, **Tamil Nadu** ranked second at 54,273 and **Chhattisgarh** third at

53,180 sanctioned hospitals.

**iii.** One reason behind Gujarat's success is that it has already been implementing a similar scheme, known as the Mukhyamantri Amrutam 'MA' Yojana, since 2012.

**iv. Karnataka and Maharashtra** rank 4th and 5th closing off the top 5 ranks under the scheme.

**v.** Although **Uttar Pradesh and Bihar** accounted for the **highest number of beneficiaries**, they still rank among the lowest performers so far.

**vi. UP** had verified **1.18 crore** families as beneficiaries and in **Bihar** the number is **1.09 crore** families.

**vii. Rs 400 crore** has been raised under this scheme so far, of which **Rs 350 crore** has already been given out by the Centre and states.

**viii.** And as of November 24, 2018, over **3.4 lakh beneficiaries** have been treated under the scheme since its launch in September 23, 2018.

#### **Other News:**

Furthermore, in early November 2018, the finance ministry was asked for an additional fund amounting to **Rs 2,000 crore** for proper implementation of the scheme for the rest of this financial year.

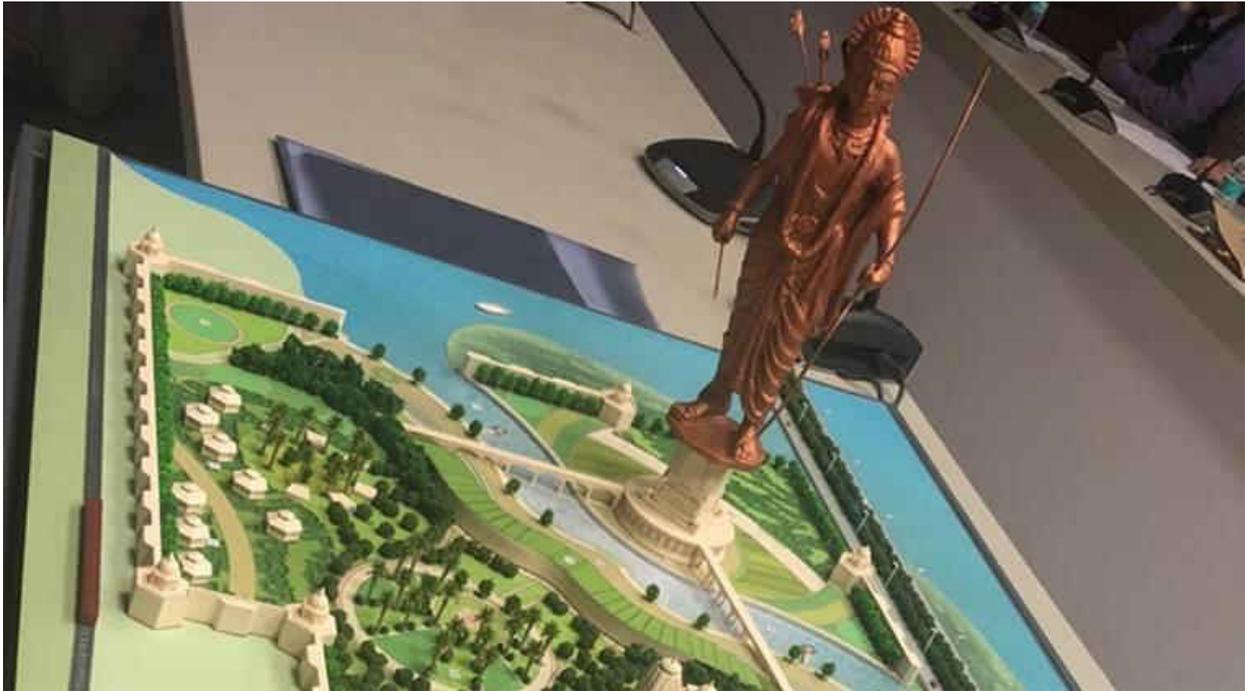
#### **About Ayushman Bharat-Pradhan Mantri Jan Arogya Yojana (AB-PMJAY):**

◆ Launched: September 23, 2018.

◆ The scheme promises health coverage of Rs 5 lakh per family to over 10 crore poor families.

**Yogi Adityanath gave nod for construction of 221-meter tall Ram statue in**

**Ayodhya**



On November 26, 2018, **Uttar Pradesh Chief Minister Yogi Adityanath** unveiled the finalized details for the construction of a **221-metre** long statue of **Lord Ram** in **Ayodhya**.

- i.** The height of the Ram statue would be **151 metres**, its overhead umbrella would be **20 metres** while the pedestal would be **50 metres**.
- ii.** The combined height of the structure would thus be 221 metres, making it the **world's tallest statue**.
- iii.** The statue will be made of bronze and will house a “modern museum” which will have history of Ayodhya and the entire “Ikshvaku Vansh” right from King Manu to the present status of “Ram Janmabhoomi”.

**Andaman & Nicobar Islands home to tenth of India's fauna species: ZSI**



According to a publication by the **Zoological Survey of India** titled 'Faunal Diversity of Biogeographic Zones: Islands of India', the Andaman & Nicobar Islands which comprises only 0.25% of country's geographical area is home to 11,009 fauna species thereby putting the numbers of fauna species found in the Island to more than 10% of the country's total fauna species.

**Key points:**

- i.** The presence of a large number of species in such a small area makes the Andaman and Nicobar Islands one of the richest ecosystems and biodiversity hot spots in India.
- ii.** Among the 46 terrestrial mammalian species found, three species have been categorised as Critically Endangered — Andaman shrew (*Crocidura andamanensis*), Jenkin's shrew (*C. jenkinsi*) and Nicobar shrew (*C. nicobarica*). Five species are listed as Endangered, nine species as Vulnerable, and one species as Near Threatened, according to the IUCN.
- iii.** 344 species of birds are found only on the islands. Many of these bird species are placed in the IUCN Red List of threatened species under the Wildlife Protection Act (WPA).
- iv.** Another unique feature of the islands' ecosystem is that 555 species of

scleractinian corals (hard or stony corals) are found in the island.

v. Recently, the Government of India relaxed the Restricted Area Permit (RAP) norms for some foreign nationalities notified under the Foreigners (Restricted Areas) Order, 1963, to visit 29 of its inhabited islands, till December 31, 2022 triggering increased anthropogenic pressures over the islands' ecosystem.