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The Bhojshala Verdict and the Unfinished Business of the Places of Worship Act

THE HINDU

16 May 2026

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INTERVIEW ANGLE

"Does the Places of Worship (Special Provisions) Act, 1991 apply to ASI-protected ancient monuments, and can ASI archaeological surveys override its August 15, 1947 religious-character freeze?"

EDITORIAL SUMMARY:

The Hindu argues that the Madhya Pradesh High Court's declaration of Bhojshala as a Hindu temple – based on an ASI archaeological survey rather than the Places of Worship Act – raises urgent constitutional questions that only the Supreme Court can definitively resolve. Without clarity on whether the Act applies to ASI-protected monuments, India faces a cascading series of temple-mosque disputes that will destabilise the communal compact the Act was designed to protect.

THE CORE LEGAL QUESTION

The Places of Worship (Special Provisions) Act, 1991 has a deceptively simple architecture:

- **Section 3:** Prohibits conversion of any place of worship from one denomination to another
- **Section 4:** Freezes the religious character of all places of worship as of **August 15, 1947**
- **Section 5:** Explicitly exempts the Ram Janmabhoomi-Babri Masjid site AND monuments regulated under the **Ancient Monuments and Archaeological Sites and Remains Act, 1958**

The MP High Court's verdict appears to rely on the Section 5 exemption: since Bhojshala is an ASI-protected monument, the court arguably determined that the Act's freeze does not apply. The court then accepted the ASI archaeological survey as evidence of the site's Hindu character.

The Hindu's concern: This reasoning, if upheld, creates a blueprint for circumventing the Act – any disputed site could be:

- ❶ Commissioned for an ASI archaeological survey
- ❷ Declared an “ancient monument” (AMASR Act)
- ❸ Thereby removed from the Places of Worship Act’s protection

WHAT THE ACT WAS DESIGNED TO DO

The Places of Worship Act was enacted by the **Narasimha Rao government in 1991** at the height of the Ram Janmabhoomi movement – when the concern was precisely that Hindu nationalist groups would launch simultaneous claims against mosques built on the sites of medieval temples.

The Legislative Intent

The Statement of Objects and Reasons of the 1991 Act explicitly states:

“The State hereby declares its solemn resolve to protect the secular features of the Indian polity, which is one of the basic features of the Constitution.”

The Lok Sabha debates (July-August 1991) record that the bill was designed to:

- ❶ **Prevent proliferation of disputes** beyond Ayodhya
- ❷ **Codify the status quo** as it existed at Independence – not as it might have existed before Muslim rule
- ❸ **Signal state commitment** to non-discrimination between religions

The Act is, in other words, not just a dispute-resolution mechanism but a **statement of constitutional morality**.

THE RAM JANMABHOOMI PRECEDENT – MISREADING IT

The MP High Court verdict has been portrayed as applying the “Ayodhya model” – archaeological survey followed by judicial determination of Hindu character. But **The Hindu argues this misreads the Supreme Court’s 2019 judgment**:

- The SC in the Ayodhya case (2019) was careful to note that the verdict rested on the **specific facts of the Ayodhya dispute** and the explicit Section 5 exemption
- The SC did NOT hold that archaeological evidence of a prior Hindu structure automatically gives Hindus a right to the current site
- The SC upheld the Places of Worship Act’s validity and called it a **legislative instrument for preserving secularism**

If every site with archaeological evidence of a pre-medieval Hindu structure becomes contestable, India has approximately **3,000+ ASI-protected monuments** – many with contested histories.

THE SUPREME COURT CHALLENGE AHEAD

The constitutional challenge to the Places of Worship Act (Ashwini Kumar Upadhyay v. Union of India) is pending before the Supreme Court. The challenge argues:

ARGUMENT	ARTICLE CHALLENGED
The Act discriminates against Hindus, Jains, Buddhists by preventing them from reclaiming sites	Article 14 (equality), Articles 25-26 (freedom of religion)
The Act irrationally freezes history at a colonial-era date that itself reflected injustice	Article 14 (reasonableness)
Section 4(2) extinguishing pending cases violates access to justice	Article 32 / right to remedy

The Hindu's position: The SC must:

- ❶ Uphold the Act's constitutional validity
- ❷ Clarify that the ASI-monument exemption in Section 5 covers administrative governance of monuments (ASI's maintenance functions), NOT disputes about their religious character
- ❸ Issue guidelines preventing archaeological surveys from being weaponised as pre-litigation tools

COMMUNAL COMPACT AND CONSTITUTIONAL MORALITY

The editorial draws on **B.R. Ambedkar's constitutional vision**: the Indian Constitution was designed to create a future, not to restore a past. The Places of Worship Act embodies this forward-looking ethic.

The communal compact argument: If every historical wrong becomes judicially correctable, India's religious minorities – who constitute ~20% of the population – cannot have the security that constitutional democracy promises them. The compact between majority and minority communities rests on the assurance that the law will not be used to reverse centuries of history.

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Key arguments:

- The Places of Worship Act is a quasi-constitutional instrument – Parliament’s codification of the constitutional commitment to secularism (a basic structure feature)
- The SC’s delay in resolving the constitutional challenge creates legal uncertainty that lower courts exploit
- ASI’s dual role – as archaeological authority and evidence-gatherer in religious disputes – creates structural conflict of interest

GS Paper 1 – History and Society

- Medieval temple-mosque history: the narrative of “conversion” vs. “adaptation” vs. “building on ruins” is contested among historians
- The 1947 cut-off date is itself arbitrary – it reflects British-era administrative arrangements, not a neutral historical baseline

Keywords: Places of Worship Act 1991, Section 4 freeze, Section 5 exemption, ASI-protected monuments, Bhojshala, constitutional morality, Ram Janmabhoomi precedent, communal compact, Narasimha Rao, AMASR Act 1958.

The Hindu’s argument is ultimately about the difference between law as archaeology and law as architecture. Archaeological surveys reveal what was – they cannot determine what the law should protect today. The Places of Worship Act made a specific constitutional choice: that post-Independence India would not adjudicate the injuries of medieval history through the courts. The Bhojshala verdict, even if legally defensible on the ASI-monument exemption ground, undermines that choice – and only the Supreme Court can now restore clarity before the next dispute arrives.

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