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Sabrimala - A Conundrum between Religion and Feminism

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Sabarimala is one of the most important Hindu pilgrimage destinations in the world. It is a temple devoted to Lord Ayyappa, the Hindu deity of development, and it is situated on a hilltop. It is hailed as one of the few "equalising" temples in the world, where worshippers of all castes and social groups are treated similarly and are obliged to wear in the same shade of black throughout the temple. The ancient conventions and traditions of how they treat women, on the other hand, are very regressive in nature. An easy solution exists to the twin problems of safeguarding female worshippers from male predators while on the walk to the mountaintop and preserving the celibacy vows of male devotees while beautiful ladies are in the vicinity of the temple. Sabarimala may be visited on different days by men and women, if the government so chooses (an idea they seem to have considered and rejected). A great deal of praise is being heaped on the Supreme Court's justices right now.

Keywords: *feminism, religion, sabrimala.*

INTRODUCTION

Not allowing women to enter into the place of religious worship and places of the religious denomination have become a very big issue of this particular time. Through these practises have been in this particular country for ages and ages, the concern for these particular issues has been started to come in the light now, movements across the country had given a rise in

the number of petitions raised in the high court and supreme court respectively. While trying to follow the norms of social reforms and equality, courts have encouragingly held the uprightness of women in many issues relating to equality, freedom of speech and expression, right to freedom of religion, etc which actually helped to curb the restriction while upholding the freedoms enshrined in the constitution. Bombay high court in its forward-looking judgment related to the prohibition of entry of women in the inner sanctum of Shani Shingnapur temple that is located in the city of Ahmednagar and women should be allowed entry to all places of religion and worship where men are already allowed, as it is their fundamental right and the duty of the state is to protect such rights. The court in this particular case focused on the Maharashtra Hindu places of Public worship Act, 1956, this particular act restricts any section or any class of Hindu population from entering into a religious space. In India, there are various taboos related to various things but two of the most prominent are the taboo attached to the menstruation and gender specific entries given to the women as women are stopped from attending certain space for the only reason that they are a woman, most of the time these reasons are combined and that is why women are not allowed in certain places of worship because of the fact that they go through menses cycle, recently on this basis in case of *Indian Young Lawyers Association v. the State of Kerala*¹, the Hon'ble supreme court held that the ban should be lifted, the ban dealt with the issue mentioned above that is of women of menstruating age not being allowed in the temple of Sabrimala, that is one of the famous Hindu temples². The court held up the arguments given through the feminist point of view and held that this particular mal practise is against the Constitution Of India, and that makes it unconstitutional while on the other hand, an equally larger group that consisted of devotees, even women, religious groups, political groups, etc. argued that the ban should be maintained since it is a religious practise and an essential part of practising religion when worshipping the specific form of god, and respect for the religious freedom of people should be observed of Hindus, the judgement gave rise to a huge amount of debate on the topic of which should be given importance when the question of fundamental rights are there from both the sides and

¹ *Indian Young Lawyers Association v State of Kerala* WP (Civil) No 373 of 2006

² Filippo Osella & Caroline Osella, "Ayyappan Saranam': Masculinity and the Sabarimala Pilgrimage in Kerala" (2003) 9(4) *Journal of the Royal Anthropological Institute* 729-54

taking one particular stand will lead one group to dissent and argue, this paper will focus on an argument from both the sides related to the main text of the constitution of India and will talk about the conundrum that happens.

LORD AYYAPPA STORY

To understand the significance of the Sabrimala Mandir, it is crucial to understand the story of Lord Ayappa, it is believed that Lord Ayappa was born by two gods coming together and that why Lord Ayappa was first referred to as the Harihara, which was a union of two names that is hari, who is god Vishnu and the other name Hara comes from the name of the lord, the name changed to Ayappa but because he was the child of two God³s, it is reasonable to say that he possessed mystic powers in himself. Now, because Ayappa was the union between Mohini and Shiva, he was left at the bank of a river, seeing him, a childless monarch took the baby with himself and the king and queen were elated. Soon after Ayaapa came to the kingdom, the king and the queen also had a child of their own, at the initial age of 12, the Monarch wanted Ayappa to become the king, so he wished to declare him as the prince, but now that they had a biological son, queen with the help of a minister planned to do something about it as both of them wanted that only the real child should be declared as the prince⁴. The reason for not letting the real child to be declared as the prince was because he was suffering from disability and he cannot be thought to be able to do the duties that are assigned to the prince or the king, the minister thought because of his disability he would be the one who will be actually considered the king.in their plan to get rid of him, the queen dramatize that she is suffering from an illness and the cure of the illness is only 'tiger's milk' and like any other respectful child, Ayappa went into the forest to get that milk and surprisingly returned riding that particular tiger, the king, when he got to know about this and saw him, realised that Ayappa was not a normal child but a mystical creature, he had special abilities that are possessed by Gods, after realising his importance, the king wished to make a temple dedicated to him that will have a shrine, to decide a place for this particular temple, the king targeted an

³ Sudhir Kakar, *Intimate relations: exploring Indian sexuality* (Penguin India 1989)

⁴ Sameera Yusuf, 'Birth and History of Lord Ayyappa' (*Times of India*, 15 June 2017)

<<https://timesofindia.indiatimes.com/religion/hindu-mythology/birth-and-history-of-lord-ayyappan/articleshow/68205091.cms>> accessed 10 June 2021

arrow that stopped 30 kms away from the King and the place was decided. Now, Ayyappa discussed how the people have to worship in his name and what the worshippers have to do to get his blessings, after explaining what has to be done, he conveyed his love and blessing and departed to the holy heaven, the King followed the order of Lord Ayappa and constructed the temple which later came to be known as sabrimala temple, which was dedicated to his son and the God, Ayyappa, after the construction of the shrine and temple was done away with, Lord Parshuram, Himself made the figure of Lord Ayyappa that was Supposed to be worshipped and the temple opened on the auspicious day of Makar Sankranti, A Hindu festival⁵.

FEMINIST ARGUMENTS

The practice of not allowing women in the Sabrimala temple violated the right to equality enshrined in Article 14⁶ of the constitution of India since this particular decision was considered the exclusionary practice that did not have any constitutional object to achieve. It was considered as an antithesis of the power awarded to the particular religious practise, it was considered that it is not based on any reasonable objective but is based on whims and fancies. It was also considered that this particular norm was against article 15(1)⁷ which deals with the fact that state should not discriminate on any ground while in this particular case, we see that there is discrimination happening on the basis of sex⁸. It is true that the sub-clause of article 15 is also violating because something like a temple is a public place to worship gods since it is also funded a little by space which comes under article 290A. the fact that allowing the non-entry of women will not be against the right of an individual to follow a religion or worship. When we are discussing the Act of 1965, it also does talks about the law of prohibition of entry of women in this particular temple, it was passed against article 25(2)(b) which talks about social reforms. Rule 3(b) mentioned in the particular act which talks about

⁵ Subhamoy Das, 'The Legend of the Hindu God Ayyappa' (*Learn Religions*, 6 February 2019) <<https://www.learnreligions.com/lord-ayyappa-1770292>> accessed 10 June 2021

⁶ Constitution of India, art 14

⁷ Constitution of India, art 15(1)

⁸ Nikita Azad, 'A Young Bleeding Woman' Pens an Open Letter To The 'Keepers' Of Sabrimala Temple' (*Youth Ki Awaaz*, 20 November 2015) <<https://www.youthkiawaaz.com/2015/11/open-letter-to-devaswom-chief-sabrimala/>> accessed 10 June 2021

no entry of women in the temple was held violative of the fundamental right. whether a practice is essential to religion. The problem that arises here is of religion versus equality, but one has to understand that article 25⁹ or article 26¹⁰ do not speak out Any kind of essential practises at all, right to freedom of religion does not profess anything about essential practises in religion, by the discretion and thinking of the court, the court assumed that when the answer about essential practise is not available in the writing of the Constitution of India, it is on the court to decide if one practise counts as essential practise or not and they will also determine if it carries the heart of that particular religion. If any practise should be considered as essential will be determined by the court and if the court held that this particular practise is not essential then that particular thing will not be protected by the application of Article 25 or Article 26 of the Constitution of India. The matter related to essential practise was taken care of in the Qureshi case where a constitutional bench determined a practise that was considered essential by a particular group namely Muslims, but the bench decided that the nature of this practise is non-essential in its form and actually held that sacrificing animals such as cows should not be held to be essential practise in the festival of Bakr-Id.

RELIGIOUS ARGUMENTS

It is pointed out from the religious group that the people who worship the Lord Ayyappa are not a religious group in themselves as they do not possess any kind of common faith, the people who worship lord Ayappa are not part of only one set of religious people, it is also pointed out that each temple in its self might have a different set of practises in their religious places, and set of practises will vary from north to south and east to west but that will not make everyone a different set of religion. It was also contended in front of Hon'ble Supreme Court that the prohibition on women is not absolute and that no women can enter at all, there is a specific limit kept under this particular practise that is off for the age group from 10 to 50 years are not allowed in the temple, because he is supposed to be worshipped in that particular form. There is also a very painful period of practise that is called vruthum¹¹, which

⁹ Constitution of India, art 25

¹⁰ Constitution of India, art 26

¹¹ PP Narayanan Nambudiri, 'Bhakti Cult in Kerala' (1981) 42 Proceedings of the Indian History Congress 157-162

is basically a difficult period of cleansing the mind and soul performed in the span of 41 days, allowing menstruating women in this particular time will be hard on their health. It is discussed that one of the reasons for excluding women was the health issue during menses. The practise of being a celibate and practicing it is a very iconic ritual that is only related to Lord Ayyappa at the Sabrimala Temple. It is considered that Hindu God and Goddess have different kinds of forms, one is considered as their physical nature in which they are worshipped and the other is considered to be their moral forms or type¹². While worshipping, one has to keep in mind, that the prayers for each of these forms will be very different and people normally believes and worships one of the forms of this god or Goddess, one such example is of Kamkhaya temple where the yoni of Sati is worshipped and women are not allowed to enter in their menses. It is also to be considered that the form in which a lord is worshiped should be considered important and importance should be given to preserving the particular form. If one has to consider such instances then Lord Krishna in the temple at Nathdwara has taken the form of a child and he is worshipped in that particular way there, in another case of the Supreme Court which is called In **Tilkayat Sri Govindlalji Maharaj v State of Rajasthan**¹³, the form of the god should be considered his spiritual form and that he should be worshipped in a particular way while observing this, they also discussed cruciality of believing in the specific form of that God and talked about the importance of Bhakti, in this particular place, the followers worshipped daily and on a schedule as they had to worship Nidhi Swaroop since they considered it an essential practise and by worshipping them in their specific form will only provide for the salvation of the soul. In another case of **Venkaatarmana Devaru & ors. v State of Mysore & Ors.**¹⁴, the court in this particular case has actually held the importance of the essential practises in a religion and have discussed that God has different and unique forms which are supposed to be prayed in those particular ways, and to get salvation, certain forms should be worshipped as they are in the temples specified, prayer has two types, it is normally the one who is praying and the one who is getting prayed too, so if the God is supposed to be not worshipped in the particular form that he has ascribed to be

¹² Kalyani D Menon, 'Sixth Response: Religious Pluralism and Interfaith Dialogue: A View from India' (2005) 55(1) Cross Currents 37-40

¹³ *Tilkayat Sri Govindlalji Mahaaraj v State of Rajasthan* 1964 SCR (1) 561

¹⁴ *Venkaatarmana Devaru v State of Mysore* 1958 SCR 895

worshipped, then, in that case, it will go against the idea of the right to freedom of religion enshrined in Article 25 and Article 26 of the Constitution of India.

ANALYSIS AND CONCLUSION

In this particular case of the Sabrimala temple, little attention was given to the fact that this particular practise has been there for ages and centuries and it was always considered as one of the most important religious practice of the Sabrimala Temple. In India, there are many temples that have a specific and targeted way of worshipping the particular god in its form, the people of different sect and religion worship god and goddess in a certain way in which they believe them to exist, so one has to understand that these are a religious sentiment that constitutes the freedom of religion, and these practises should not be challenged. The judgements are opposite of forward looking since it does not take into regard the balance that should be maintained in religion and equality, and if such type of judgements is being passed by the supreme court, it will open the door too wide and will lead to many religious practise to be challenged and will lead to burdening litigation which will span for years. This particular judgement has led to believe that they do not bother about equity and places burden on the age old practises and puts right to freedom of religion in a smaller place if compared with the right to equality, they have different sects and religion to believe that their ages old practises can be challenged and removed on such grounds and there will be a problem in actually worshipping the gods in the form these worshippers want to, the judgement of Supreme court related to Sabrimala issue is wrong in the sense that it was a proactive judgement and law should not have interfered in the matters related to religion when the severe violation of human rights is not even happening, there should be little inference of law in matters related to religion, this judgement under the disguise of leftist and a feminist stand have totally disregarded that a country like India is built on ages old customs and culture, the roots of the Religious country such as India lies in their belief system. The court in this particular case is being totally insensitive to the feelings of all the worshippers and has not taken into regards the sentiments attached to the particular practises of the religious sect, while the order is considered to be reformative by one side of the people in the country, it will not apply to the

religious side of people that takes pride in pointing out its customs, tradition, and culture that has been here since centuries. The Supreme Court should have taken into regards that these particular practises provides a distinguished image to the religion. There are various temples in which ages old tradition are kept in the mind and are followed, some examples are Patbausi Satra which is located in Assam does not allow entry of women, and the reason behind this prohibition is that allowing entry will cause the purity of the place to vanish, it was built by Sankardeva and it took 18 years of his life. Now, the next temple that we will discuss is Ranakpur temple, which is located in Rajasthan, the women who are in their menstrual age, same as Sabrimala and are denied entry at that time, the temple goes one step ahead and even has rules about western dresses. Now, Padmanabhaswamy Temple, which is located in Kerala, in a village of Thiruvananthapuram, women are not allowed to enter the inner sanctum, which is called nalambalam, women are only allowed to play from the outside of the sanctum¹⁵. It is also not taken into regard that there are other temples of Ayaappa in Kerala, where women can worship on daily basis and there are no restrictions in regards to their entry, so Sabrimala is a unique case since the nature of the form of God that is to be worshipped is called naishtika brahmachari, which is the form that promotes celibacy, this does not give rise to any kind of discriminatory practise towards women, as the purity is one of the main reason here which should not be discarded like anything. If the court really has to ban discriminatory practises, they should focus on the arbitrary ban on people that take place in case of the various religious institution such as some temples in India have been accused of banning Shudras which goes against the text of Article 17 and some of the temples and mosque have been guilty of banning people from the other religious sects. The Judiciary should focus on balancing the fundamental rights, and not take extreme steps which might prove harmful in the long run and affects the roots of the country that we live in.