

INDIAN YOUNG LAWYERS ASSOCIATION VERSUS THE STATE OF KERALA¹

Indian Young Lawyers Association versus the State of Kerala is a 2018 case related to the entry of women aged between 10 and 50 into the Sabrimala Temple in Kerala. The entry of women into the temple was prohibited on the grounds of purity and sanctity and thus was considered discriminatory in nature. The writ petition was filed first in the Kerala High Court, where the decision came in favour of the prohibition. A group of five women lawyers then went to the Supreme Court against the judgment of the Kerala High Court. The petitioners argued that the prohibition violates the Fundamental Rights of women enshrined in Articles 14, 15, 17 and 25.

The Sabrimala Temple is situated in the Sabrimala hills in the state of Kerala. The temple is [dedicated to Lord Ayappa](#), who is considered to have been born out of the Union of Lord Shiva and Lord Vishnu in his Mohini avtar. The Ayappa is widely worshipped, especially in the Southern part of India. However, the Sabrimala Temple is the most prominent due to its story of divine origin. It is believed that Lord Ayappa himself directed King Rajsekara to build a temple here at the Sabrimala hills. It is also said that Lord Ayappa himself advised about the practice of pilgrimage and penance, or Vratham, to be followed for the pilgrimage to the temple. Vratham is a form of rigorous penance to be performed for 41 days by the person who wishes to offer a pilgrimage to the Sabrimala Temple. The devotee has to follow the rules like cooking their own food, staying away from family, abstaining from physical relations, etc. These all rules were aimed at the mental and physical purity of the devotee.

The women cannot perform the practice of Vratham for 41 days, as they have to go through menstruation, and thus, their entry was prohibited in the temple to maintain the purity of the Temple. Another argument in favour of prohibition was that Lord Ayappa, in this temple, resides as Naistika Brahmachari, meaning lifelong celibate. The women's pilgrimage to the temple could result in disturbing the celibacy of Lord Ayappa.

This prohibition was the root cause of the filing of the writ petition. The petitioners argued that such a prohibition on the entry of women is unconstitutional. Article 14, which guarantees equal protection under the law, was invoked by the petitioners. Additionally, the practice violates Article 15 as it discriminates based on sex, as well as breaches Article 17 by promoting untouchability through the notion of women being impure. Article 25 of the Constitution provides freedom to practice and propagate religion. The article gives power to practice essential religious practices in which the state cannot interfere. However, the petitioners argued that the exclusion of women from entering is not part of essential religious practices. The practice is only 60 years old and thus is not essential in character. It was also argued that the Sabrimala Temple is not a separate religious denomination but part of Hinduism and thus cannot restrict women from entering the premises.

Question of Law

¹ AIR 2018 SUPREME COURT 1650

The major Question of Law was whether the prohibition on the entry of women promotes discrimination based on sex, as well as untouchability, thus violating Articles 15 and 17. The Court also contended on the issue of whether the entry in the temple forms the basis of essential religious practices protected under Article 25. Deliberations were also made regarding the scope of Article 26. The article provides religious denominations with the freedom to manage religious affairs. The Question of Law was raised whether a religious institution can exercise exclusionary power in the name of management. The denominational character of the Sabrimala Temple was also contested. Section 3(b) of Kerala Hindu Worship (Authorisation of Entry) Rules, 1965 states that women who, by custom and usage, are not allowed to enter the temple should not be allowed to enter for worship. The question was also in front of the bench whether this Section is constitutional or not.

Judgment

The court, in its judgment, held that the practice of prohibiting women from entering into the Sabrimala Temple is constitutional and is not consistent with Articles 14, 15 and 17. The court also held that the Sabrimala Temple is not a religious denomination in itself but part of Hinduism, and thus, entry cannot be restricted. The court also concluded that the prohibition of entry is not a part of essential religious practices. The restriction on the entry based on the menstrual cycle was considered unethical and a promotion of untouchability and inequality by the court. The court also invalidated Section 3(b) as it hindered the freedom of women to practice religion

A review petition was filed instantly after the Judgment was delivered. A nine-judge bench was formed for the hearing, and currently it is still in the Court.

References

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