

SABRIMALA: AN INVASION ON BELIEFS

- Shourya Shubham*

In the recent past, many landmark judgements are being made which caused a lot of hue and cry in the society. But one verdict of The Honourable Supreme Court grabbed everyone's attention and that was the 'Sabrimala Judgement'. Many claimed that this verdict has relentlessly questioned the basis of the beliefs of people. People had made this an issue of 'Gender Equality', which it never was. Men are not allowed to enter in a female washroom, is it also some kind of gender discrimination? The most amusing question which arises in my mind is how can you worship a deity after breaking the rules of his house. I have conducted qualitative research in order to access the insights and a more distinct view of the subject. Analysis of the data shows interesting ideologies, beliefs and practices. In the fast-growing society, everyone is rushed to have an opinion but none of them has an informed opinion. The whole chaos around this is because there is an exclusion of a specified age group of women, but the issue is all about the character of the deity who is celibate in nature and is a 'Naishtik Brahmachari'. This is a person who refrains from all worldly pleasures, desires and attachments, be it material or emotional. There is a decent chance that most people with their liberal, secular and modern values may say that this is superstitious, but who it is to decide that what is superstition and what is religion?

"We have been praying 'Ayyappa rakshikane' i.e. (Ayyappa, please take care of us). Now, we are praying 'Ayaappane rakshikane' i.e. (please take care of Ayyappa)."

While religion and religious beliefs remain important and inseparable part of the lives of most of the Indians, a whacking judgement of Supreme Court raises questions on the faith of millions of Indians. Several questions were raised, among them, the most sensitive question posed was-Should women be allowed to enter Sabrimala Shrine? This question put everyone in a dilemma that whether faith or equality will prevail.

Sabrimala¹ is a temple of Shastha (Deity), situated at Sabrimala in Pathanamthitta district, Kerala, India. It is the site of one of the largest annual pilgrimage in the world with an estimate of between 40 million to 50 million devotees visiting every year. This temple is the second largest seasonal pilgrimage subsequent to the Islamic Holy Site of Mecca which is situated in Saudi Arabia. From

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¹ Sabrimala Sree Ayaappa Temple: SABRIMALA, KERALA TOURISM (April 1, 2019, 11:02PM). www.keralatourism.org.

1991 to 2018, women devotees of menstruating age were not permitted to worship here because of the celibate nature of the deity in this temple.

The genesis of the argument was in 1990, when S Mahendran files plea in Kerala High Court seeking ban on women's entry to lord Ayyappa Temple at Sabrimala. In 1991, Kerala High Court² upholds age-restriction on women of a certain age group (10-50 years old) entering the temple quoting-

"Such restriction (restriction of women entry) imposed by the Devaswom Board is not violative of Articles 15, 25 and 26 of the constitution of India. Such restriction is also not violative of the provisions of Hindu Place of Public worship(Authorization of Entry) Act, 1965. Since there is no restriction between one section and another section or one class or another class among Hindus in the matter of entry to a temple whereas the prohibition is only in respect of women of a particular age group and not women in class."³ Later in 2006, six women, members of Young Lawyers' Association, petitioned⁴ the SC to lift the ban. Technically this was not an appeal but in effort, a question on the judgement of Kerala High Court. They questioned the Rule 3(b)⁵ of Kerala Hindu Places of Public Worship Rules act of 1965 which places a bar on women of a certain age group depending on the custom which is executed in all the temples of Kerala which has tantric basis. They argued that the practice was a violation of their constitutional rights and questioned the legality of the rule and asserted that this rule is contrary to the Act. In September 2018, a judgement of SC ruled that all pilgrims, regardless of gender including women in the menstruating age group, should be allowed entrance to Sabrimala. SC held that any exception placed on women because of biological differences violates the constitution- that the ban violates the right to equality under Article 14⁶ and freedom of religion under Article 25⁷". The denial of this right to women significantly denudes them of their right to worship."

² S. Mahendran vs The Secretary, Travancore, AIR 1991 .

³ SC verdict on Sabrimala, FIRSTPOST, (Nov. 14, 2019, 02:17 PM),firstpost.com.

⁴ Indian Young Lawyers Association vs the State of Kerala.

⁵ The Rule 3(b) of Kerala Hindu Places of public Worship (Authorization of Entry Rules, 1965 (Rules 1965) which states that "Women at such time during which they are not by custom and usage allowed to enter a place of worship".

⁶ Article 14 of the Constitution of India provides for equality before the law or equal protection of the laws within the territory of India. It states: "The State shall not deny to any person equality before the law or the equal protection of the laws within the territory of India."

⁷ The Article 25 states that every individual is "equally entitled to freedom of conscience" and has the right "to profess, practice and propagate religion" of one's choice.

On Nov 14, 2019, Faith gets hope as The Supreme Court Constitutional Bench referred the review petitions as well as writ petitions to a larger bench of not less than 7 judges. Many called it a fight for Individual Rights vs Religious Freedom.

This row is all about the conflict between tradition and women rights.⁸

Many legends exist about the god Ayyappa and how the temple came into being. According to one of them, Ayyappan, the deity of Sabrimala Temple is a celibate. Lord Ayyappan is worshipped as a “Naishtika Brahmachari” ie. A faithful or committed Brahmachari, someone who lives abiding by the practices of Brahman (not the Brahman caste, but the attempt to access the Brahman or consciousness of the primordial energy). A lot of people have confused “Brahmacharyam”, limiting it to just avoidance of sex. This is a person who refrains from all worldly pleasure, desires or attachments, be it material or emotional.

When he defeated the evil demoness Mahushasuri, she turned into a beautiful young woman. She had actually been cursed to live the life of a demoness until the child born out of the union of Shiva and Vishnu defeated her in a battle. Ayyappan, being the abandoned son of Shiva and Mohini (an incarnation of Vishnu), could set her free after defeating her in the battle. After the battle, the young woman proposed to Ayyappan for marriage, but he refused her saying that he had been ordained to go to the forest, live the life of a brahmachari and answer the prayers of devotees. However, the young woman was persistent, so Ayyappan promised to marry her the day kanniswamis (new devotees) would stop visiting him at Sabrimala. Unfortunately for the woman, Sabrimala was visited by kanni-swamis every year, and she was not able to marry Ayyappan. The woman is worshipped as goddess Malikappurathamma at a neighbouring temple.

At Sabrimala, the Lord Ayyappa is depicted in form of ‘Vannaprastham’ or renunciate form i.e. someone who has renounced all worldly desires. It is in this spirit, that the Sabrimala devotee tries to imbibe inside themselves the persona of Ayyappa as a Naishtika Brahmachari in Vaanaprastham and by getting all ages of women in, it will become ‘just another temple’, losing its speciality as a “monument to renunciation”. There is a ritual performed in this temple called ‘Devaprashnams’,

⁸ The History- Sabrimala, (Nov. 1, 2019), sabrimala.org

through which the 'will of God' is interpreted⁹. After the interpretation of many Devaprashnams, it was found that Swami Ayyappa does not will the entry of women of reproductive age to his abode.

There were several more interesting questions that were raised amidst the heated argument¹⁰. One of them was whether this is a complete blanket ban or it is a restriction based on so called nexus on menstruation or nexus with the celibate nature of the deity. I believe that you need to frame an issue in the right manner in order to get a right answer. When I hear people giving the rationale behind the ban of women entry, the question that pops into my mind is, can you start with the premise that the tradition is itself based on menstruation. If here, I prove that this is not based on menstruation, then the entire premise of the logic falls. The aspect of menstruation has nothing to do with this issue here. The notification prescribed by the Kerala High Court was rather arbitrary in terms of the restriction of women on the basis of age. Some girls can attain puberty before the age of 10 and some women have menopause after attaining the age of 50. State Government has taken a position by misconstruing the principle of the custom and decides to prescribe an age limit. If the rationale behind this custom is fully understood, then a more appropriate statement would be "Any women having reproductive qualities would not be allowed to enter Sabrimala, not prescribing the age limit"¹¹. How difficult is it to understand that 'Exclusion is not discrimination'? Let's not beat around the bush, and take a glance over the religious belief that has been there since ages. This particular religious practice is informed, influenced and dictated by the character of the institution. There is a nexus between the character of the institution and the particular practice, hence this practice is essential and integral for that place. This institution is dedicated to a celibate deity. There is absolutely no two way fact that the nature of the deity is celibate as being comprehended and interpreted from the texts of the temple i.e. Called 'Asthalapurana' (tells about the history and tradition of that place). The scripture that applies to this particular temple is called 'boothnathamupakhayanam' which clearly states that deity has spoken and has clearly said that I am going to perform Eternal Celibacy.

There is a decent chance that most people with their liberal, secular, modern values may say that this is superstitious, but who it is to decide that what is superstition and what is religion? For Example- Somebody says that I don't believe in 'Shahada', but I still claim to be a Muslim. Is this possible? If you don't believe in the fundamental precepts of the particular faith and you don't

⁹ Lifting Sabrimala Ban is Common Sense, (Aug. 5, 2018, 05:00AM), THE INDIAN EXPRESS, newindianexpress.com

¹⁰ V. S. Krishna & N. Parmesh, Entry of women in Sabrimala Temple, A right or A Right in disguise, Volume 2, Issue-5, 1338-1342.

¹¹ Laxmi bayi, Sabrimala: In Defence of Tradition, (Jul. 30, 2018, 11:51 PM), enthemagazine.com

treat Allah as the only God and prophet Mohammad as the last prophet, then there is no question of you claiming that you have rights of a Muslim. In order to you to gain access to a particular institution, you need to put faith in the temple and go as the rules says. For example-There is a Ganesh temple and a Hanuman temple in the same locality. Someone says that I have rights under Article 25(1) to worship this particular deity at a public place of worship in a manner I deem fit and therefore I will offer chicken as prasadam.¹² There are individual rights to practice your faith, but there are certain places which are public in nature. We treat temple as an abode of the deity for the roles of the deity to kick in. His House, his rules!!

Furthermore, Sabrimala Temple is not a Vedic temple, but a tantric temple. It goes to meta physics and tantra philosophy, when we talk about the Tantric Philosophy. This Philosophy is known for its extreme belief in the power of sexual energy. So, when the deity which is male in this case observes the celibacy and woman with reproductive capabilities enter the temple, it is the belief that it could harm her in one way or another, as the energy is extremely powerful. These arguments are rather not legal or constitutional arguments, but what we are really discussing is about a certain temple, so there is an avoidable need to give spiritual, metaphysical, philosophical and religious arguments.

Celibacy is not only directed at woman, in fact it is directed at the opposite gender, so if a woman were to observe 'Bramhacharaya' which is perfectly possible and they will be called a 'bramhacharini'. The same will apply to men. So, this is not a masculine or patriarchal concept and assuming that would be an injustice to the concept of Bramhacharya. The entire object is not only limited to preservation of the celibate character of the deity, the character is the fundamental entity under Article 25(1), because a deity is a living person under Hindu Law and other Indian Laws. Hence the deity also has rights under Indian constitution as it is a living person.

This deity has different forms, in a nearby place this same deity is placed along with his two wives, but in Sabrimala specifically, he holds a celibate form i.e. 'Naisthik Bramhachari', according to which he has to maintain distance from women with reproductive capabilities. India has a diverse culture, there are certain temples in Delhi of a certain deity, you cannot even dream of non-vegetarian food as prasad whereas in Calcutta, in the temple of very same deity, they are celebrating the non-vegetarian food as prasad. How will you differentiate? What will you say, then?

¹² Article 25(1) of Indian Constitution guarantees to every person, and not merely to the citizens of India, the freedom of conscience and the right freely to profess, practise and propagate religion.

The stereotype, the myth, the legend which has been perpetuated by media, that this whole discrimination is based on the biological aspect of women should be completely shattered in slithering. The impugned religious practice is an essential part of the temple, and hence this restriction is also valid.

There exists a lot of temples where men are strictly not allowed to enter the temple premises. The 'Mata Temple' in Muzaffarpur, Bihar, allows only women during the time of 'Periods'. Here, the rules are so strictly followed that even a male priest is not allowed to enter the temple during that time. The 'Kamakhya Temple' of Guwahati, where 'creative divinity' of women is worshipped and hence men are denied to enter the temple for some days in every month to observe the privacy of women during their period of menstruation. The 'Lord Bramha Temple', Pushkar, Rajasthan, prohibits the married men from entering the sanctum sanctorum to worship the deity. Only ascetics can perform the puja here, even the priest is celibate. 'Reverse Discrimination' against men at these shrines which has been very prevalent till today has almost been unnoticed and unmentioned. Everything is not about gender equality or human rights, sometimes faiths and beliefs should also be given an upper hand.

Don't you find it amusing, that everybody is focusing on the rights of those people who clearly calls into question, every practice which is central to the character of the temple, and still claim the right to worship.

Another strong argument which was raised by the petitioner was that this is a temple which receives funds from the state (in this case, Kerala) under Article 290(a)¹³, 51 Lakhs is given to the temple from Consolidated Fund of India. So, the temple acquires a character of state and a state funded institution. Hence, the state can decide who can enter. But, no one bothers to find actually what is happening, the amount which the temple has been given is not fund but a rent. The Travancore princely state has taken over the lands of the temple in 1922 in order to run the management of the particular temple, in return they promised to give 51 lakhs every year for their upkeep and maintenance of the temple. When the Travancore princely state merged with union of India after independence then it came as a liability for the Indian Government, as the lands of

¹³ Article 290(a) says that in case of a charge on the Consolidated Fund of India, the court or commission serves any of the separate needs of a state, or the person has served wholly or part in connection with the affairs of a state.

Sabrimala were now under their possession. So, this is not some kind of 'Dana' or 'Charity', but a rent. Article 27¹⁴ is the crystal-clear exposition of the separation of the temple from the state.

It does not take much to understand that 'Exclusion is not discrimination.' For the sake of contentment of equal rights everywhere, you should not butcher or question the basis of someone's beliefs. The Supreme Court has also drawn a line to distinguish that whether it is a matter of religion or not. The Court held that "What constitutes the essential part of a religion is primarily to be ascertained with reference to the doctrines of that religion itself". This meant that the views of the followers of the religion were crucial to determine what constituted the essential aspect of a religion. The Guwahati High Court in *Ritu Prasad Sharma Vs State of Assam* (2015), ruled that religious customs which are protected under Article 25¹⁵ and Article 26¹⁶ are immune from challenge under other provisions of Part 3 of the constitution. The religious matters should be decided by the religious communities, rather than the court. It is because notions of rationality cannot be inserted into religious matters. The present verdict was not restricted to Sabrimala and had wide ramifications, that is the reason why issues of deep religious sentiments should not be ordinarily referred to by the court. As the Sabrimala judgement will essentially be heard afresh, the constitutional debate on gender equality will open up once more. This review gives the devotees and the Sabrimala Temple Authorities who have battled the Supreme Court verdict a chance to have the verdict potentially overturned. The larger Bench reference will also re-examine the "essential religious practice test", a contentious doctrine developed by the court to protect only such religious practices which were essential and integral to religion. This has given a new hope for the devotees, that Court will understand the fervour of devotees towards the character and nature of their Deity and their belief will stand tall.

¹⁴ Article 27 says that no person shall be compelled to pay any taxes, the proceeds of which are specifically appropriated in payment of expenses for the promotion or maintenance of any particular religion or religious denomination.

¹⁵ The Article 25 states that every individual is "equally entitled to freedom of conscience" and has the right "to profess, practice and propagate religion" of one's choice.

¹⁶ Article 26 states that every religious group has a right to establish and maintain institutions for religious and charitable purposes, manage its affairs, properties as per the law. This guarantee is available to only Citizens of India and not to aliens.