

Women's Entry into Sabarimala Temple

Why in news?

\n\n

\n

- Supreme Court is hearing petitions challenging the prohibition of women of 10 to 50 years of age to enter the Sabarimala temple.

\n

\n\n

What is the temple's legal back up?

\n\n

\n

- It relates to Rule 3(b) of the Kerala Hindu Places of Public Worship (Authorisation of Entry) Rules, 1965.

\n

- It states, "Women who are not by custom and usage allowed to enter a place of public worship shall not be entitled to enter or offer worship in any place of public worship."

\n

- It is based on this provision that the Sabarimala temple prohibits women aged between 10 and 50 years.

\n

- It claims, through the Travancore Devaswom Board, that its deity, Lord Ayyappa, is a "Naisthik Brahmachari."

\n

- So allowing young women to enter the temple would affect the idol's "celibacy" and "austerity".

\n

\n\n

What are the court's observations?

\n\n

\n

- Tagging a woman's right to enter a temple with her menstrual cycle is unreasonable.

- \n
- Exclusion of menstruating women considered 'impure' could amount to the practice of untouchability.
- \n
- And notably untouchability is a social evil which is abolished by law.
- \n
- The CJI said there is no concept of "private mandirs (temples)."
- \n
- Once a temple is opened, everybody can go and offer prayers and nobody can be excluded.
- \n
- The Chief Justice noted that the Sabarimala temple drew funds from the Consolidated Fund.
- \n
- It had people coming from all over the world and thus, qualified to be called a "public place of worship."
- \n
- So, clearly, in a public place of worship, a woman can enter, where a man can go, and what applies to a man, applies to a woman.
- \n

\n\n

What are the contentions?

\n\n

- \n
- The current ban is based on a biological factor (menstruation) exclusive to females.
- \n
- There is thus a contention if the fundamental right of women can be discriminated solely based on such criteria.
- \n
- Article 25 mandates freedom of conscience and right to practise religion, to which all persons are entitled.
- \n
- There is nothing in *health, morality or public order* that prevents a woman from entering a public place of worship.
- \n
- Thus the right as a woman to pray is not even dependent on a legislation as it is a constitutional right.
- \n
- However, the religious freedom clauses in the Constitution are possessed of a special complexity.
- \n

- Also, the court's own past jurisprudence seems to put forward contradicting arguments.
- \n

\n\n

What is the way forward?

\n\n

- \n
- Traditionally, to resolve such issues, the Supreme Court has relied on the "essential religious practice" doctrine.
- \n
- It is carved out by the court for itself, to determine rituals and beliefs that deserve special constitutional protection.
- \n
- Historically, such exclusion policies have been defended as extensions of faith, being rooted in culture and tradition.
- \n
- But favouring the autonomy of the group over that of an individual would endanger the rights of socially subordinate members.
- \n
- The court should thus see this as an opportunity to reassess and reform the historical shortcomings, if any.
- \n
- The court has to look beyond the essential practices doctrine, to set a precedent for a radical re-reading of the Constitution.
- \n
- Constitution could thus move from being a conception of boundaries to that of a transcendental tool for social revolution.
- \n

\n\n

\n\n

Source: The Hindu

\n