

“Women Prohibited from entering the Temples and Mosques”

**Vinayak Balduva
ICFAI University,
Dehradun*

***Sarthak Gupta
ICFAI University,
Dehradun*

****Simran Solanki
ICFAI University,
Dehradun*

ABSTRACT

In this research paper, the authors would like to describe about the condition where the women in India are struggling to enter the temples and mosques. There are still a lot of myths and ill-beliefs all around about religion. The most amazing thing in the midst of all of this is that no one has ever tried to surpass religion and achieve the true spirit of human life instead they still cling to the laws that made people human as an essential element of gaining God's favour. As well as religious fire imagine when the same is associated with the prominence of women in the world. However, the research paper will focus on the issue of women struggling to enter temples and churches. This will be followed by keywords, abstract, short introduction, discussion of the topic, in-depth analysis of the author, reference made and a brief bio by the author.

KEY WORDS

Temple/ Mosque entry, Ban, Right to pray, fight, Taboo

INTRODUCTION

The restriction on women to enter the places of religious worship has now become a contentious issue of the time. This is not the case that has come up suddenly, such practices have been persisting in India from time immemorial, but the awareness and the movements across the nation have recently espoused these concerns, leading to several petitions and appeals filed before the High Courts and the Supreme Court. In a secular country, i.e. India, everyone has right to freedom of religion and practising and propagating it freely except reasonable restriction under constitution¹. Ensuring gender equality is one of the features of the constitution, and who would have thought that the right to pray would be something to be debated upon? Cases involving the Sabarimala temple in Kerala, the Shani Shingnapur temple in Maharashtra and the Haji Ali Dargah, where women have been denied access to the inner shrine, have brought this issue into the limelight. Going with the wind and encouraging the trend, courts have upheld the rights of women to equality and freedom of religion, thus

¹ Indian constitution 1950, Art. 15

trying to end the year's old custom and shutting down the restrictions imposed. Maharashtra Hindu Places of Public Worship (Entry Authorisation) Act, 1956 prohibits obstructing a class of the Hindu from entering places of worship, The Bombay High Court in landmark decision allowed the entry of women into the sanctum sanctorum at the Haji Ali Dargah² in 2016, terming the ban on entry unconstitutional. Superseding various constitutional principles and provisions, the Bombay High Court dismissed the protectionist approach that is adopted by the state towards gender equality. This denial of entry into the temple is not for all women, only the women between the age of 10years and 50 years have been denied entry to the Sabarimala for over 60 years. The women entry ban was challenged in 1991 before the Kerala HC, which upheld the ban. India Young Lawyers Association has put a review of the issue through PIL before the Supreme Court, saying that the ban violates women's rights to equality, non-discrimination, and religious freedom. The petition very good opportunity for the Supreme Court to clear the path for equal rights for women in matters of religion.

CASE LAWS

SABRIMALA TEMPLE CASE³

The Supreme Court in a 3:2 verdict has referred all review pleas to a larger seven-judge bench. The court said restrictions on women in religious places was not limited to Sabarimala alone and was prevalent in other religions as well. Chief Justice of India Ranjan Gogoi, reading the verdict on behalf of himself and Justices A. M Khanwilkar and Indu Malhotra, said the larger bench will decide all such religious issues relating to Sabarimala, entry of women in mosques and practice of female genital mutilation in the Dawoodi Bohra community. The CJI said the endeavour of the petitioners was to revive debate on religion and faith. The apex court, by a majority verdict of 4:1, on September 28, 2018, had lifted the ban that prevented women and girls between the age of 10 and 50 from entering the famous Ayyappa shrine in Kerala and had held that this centuries-old Hindu religious practice was illegal and unconstitutional.

Yasmeen Zuber Ahmad Peerzade & Anr. vs Union of India⁴

Muslim women's entry into mosques and dargahs

In April 2019, a woman living in pune, Yasmeen Zuber Ahmad Peerzade, and her husband, Zuber Ahmad Nazir Ahmad Peerzade, moved the SC seeking help from the governments and Muslim bodies for allowance of muslim women to enter in mosques from the main door, and to have the Islamic right to visual access to the main prayer area.

² Thehindu.com (<https://www.thehindu.com/news/cities/mumbai/haji-ali-verdict-has-helped-us-feel-equal/article24795290.ece>) (By Jyoti shelar) [UPDATED: AUGUST 28, 2018 00:18 IST] [Last visited: JULY 25, 2021 18:24 PM]

³ 2018 SCC Online SC 1690

⁴ Writ Petition(s) (Civil) No(s). 472/2019 | 05-11-2019

YASMEEN ZUBER AHMAD PEERZADE & ANR v. UNION OF INDIA & ORS

The petition states that “there is nothing in the Quran and the Hadith that requires gender separation” it was further added in the petition that “the act of prohibition of women from entering into the Mosque is unconstitutional and void as these practices are not acceptable to the dignity of a woman not only as an individual but also violate the fundamental rights under articles 14, 15 and 25 of the Indian Constitution”

The matter was heard on 5th November, less than ten days before the judgement of Sabarimala, by a 3 judge bench. On that day, the hearing was adjourned for ten days by the bench, but did not give any reason for doing so.

Goolrukh Gupta vs Burjur Pardiwala⁵

The petitioner name was Goolrukh contractor Gupta, who had moved the HC in 2010 after her friend named Dilbar Valvi, who was also like her, a Parsi woman married to a Hindu male, who was denied to enter in tower of Silence during her friend's mother's last rites.

In the SC, counsel for Goolrukh Gupta, Indira Jaising argued that, “in the case of marriage between a Parsi and a Hindu, is there an automatic conversion of religion?” The matter “raised issues of gender justice”, counsel said.

In December 2017, a Bench of then CJI Dipak Misra, Justices A K Sikri, Khanwilkar, Ashok Bhushan and Chandrachud, observed that “DNA does not evaporate” after marrying outside religion”, a woman does not give up her affection for her father”. Marriage under the Special Marriage Act was “only for the retention of original identity,” the court said.

The HC upheld the Valsad Parsi right to stop a Parsi woman from entering to the Tower of Silence to perform father's last rites after death.

The HC also upheld the Parsi Anjuman's contention that marrying to a non-Parsi under The Special Marriage Act, 1954, a woman has no longer a Parsi, and was instead deemed to have become Hindu.

Sunita Tiwari vs Union of India⁶

Female genital mutilation among Dawoodi Bohras

The petition was filed under Article 32⁷, had questioned the constitutionality of the practice of female genital mutilation or female circumcision, which the petitioner said that is was carried out on every girl in the community of Dawoodi Bohra.

The “archaic ritual” of Female genital mutilation, the petitioner argued that, she was carried out without any medical reasons and reference in the Quran, and inflicted “atrocious, bodily pain, inhumanity, and mental torture” on innocent women, the burden of which they were forced to carry for the rest of their lives.

⁵ SPECIAL LEAVE PETITION (CIVIL) No. 18889/2012

⁶ Writ Petition(s)(Civil) No(s).286/2017

⁷ Indian constitution 1950 [Article 32]

The petition was relied on the UN Convention on the Rights of the Child and the Universal Declaration of Human Rights, and argued that the practice violates the right to life and personal liberty (Article 21).

It contended that Female Genital Mutation should be regarded as an offence under the IPC.

A counter affidavit was also filed resisting the stand of the petitioner, which stated that the practice was almost thousands years old, and it was an integral part of the religion of the community of Dawoodi Bohra — and therefore, protected under Article 26 of the Indian Constitution which states the right of religious groups to manage their own affair.

Counsel of both parties submitted that the matter should be referred to a larger Bench, which the court accepted.

ILLITERACY- A MAJOR CAUSE

In most part of India, the society is not literate enough to understand the importance and reasons behind menstruation. They are narrow minded and have been following so many unnecessary rules and rituals creating a major issue for the women in such a painful condition. People have been following rules such as restricting the women from entering the temples, mosques and many holy religious places, women are not even allowed to touch the puja things or enter the puja room of their own house, in some places women are made to sleep on the floor, not enter the kitchen or touch some of the perishable foods and many other things stating that the women is impure during her menstruating days. These stereotypes have been followed mainly in the rural areas, but even in the urban areas there are many such orthodox families who follows the same. It is quite clear that they never raised a question against what they have been following for so long without having any valid reason. If one asks a question about the stereotype, the same people will not be able to give a logical reason for the same. They believe that if their ancestors made a rule it must be followed without any hindrance. A woman in every corner of the world bleeds to give birth to a new life⁸, she goes through so much of pain and instead of getting support and care, and she receives a list of rules to be followed. Periods is something which no women would have asked for if had a choice but still people consider the menstruating period to be impure and is one of the greatest taboo for the society. Education plays a very important role for women to deny from following such unnecessary rules. People in India do not even talk properly about it and feels ashamed in talking about it. A girl feels uncomfortable talking about her periods in front of the male members of their family or the society because this is what they have been taught that it is impure and bad and one should not discuss about it in open. Education can help such girls open up and share her pain. There are situations when women during their periods suffer a lot of pain and the situation gets worst and if no women is present around they feel suffering from the pain is better than expressing the pain to the males. In the schools, when a

⁸ Adv.Chithranjali.R.Nair (BA.LLB,LLM) [women fighting to enter temples and mosques] (www.probono-india.in
December 14, 2020)

young girl gets a stain on her school uniform, 'The Red Stain' she is looked at as if she has done something bad or evil and the people around her makes her feel so uncomfortable that she starts feeling embarrassed. Menstruation⁹ though is a part of education in the science subject, still the girls have to witness such situations in their everyday life. The students who have already been studying about the same misbehaves, teases and laughs at the young girls as if she committed an embarrassing crime. These situations creates a space in the mind of the girls and they start to think as if menstruating really is a taboo. She tries to hide the stain from the eyesight of the people around so that no bad and embarrassing comments could be passed over them. Yes, Literacy is important for it helps to understand that menstruation is far more above from poor mind-set of the people and their stereotypes but apart from that a question arises that Is literacy enough to make people understand that menstruation is a major part of a woman's life and not a taboo? NO, being literate enough and not understanding what a woman goes through will always be considered as a sort of illiteracy. Children in their school textbooks learn and study about the menstruation process and are well aware about everything related to it but still misbehaves with the girls by passing comments and doing other things, making them uncomfortable and feel embarrassed. Therefore, being literate is not enough but being educated enough to understand women and the pain they go through is what a woman expects from the society around her.

HYPOCRISY OF THE INDIAN SOCIETY

In a country like India, where women are worshipped on various occasions, there are places where women are even prohibited to enter into the temples and mosques. A lot of queries arise in the minds of women that led them to think that they are less than men in many aspects. This also makes them self-doubt their capabilities and give up easily due to the insufficient support they get. The Indian society considers a women who bleeds as impure and only based on this mind-set they have been snatching away many rights of women making them feel inferior. Menstruating makes a women impure is one of the worst stereotype the Indian society has been following since ages¹⁰. A women menstruates to give life to humans and instead of looking at them with utmost respect, the society has been making them feel ashamed in their own eyes as if they chose to bleed or did something really evil and got a punishment for that. Menstruation is a process of period through which every women has to go. The society contemplates a women who bleeds as impure and if the same woman does not bleed and cannot give birth to a child, even in that case the society doesn't step back from pointing fingers at them. A woman should be considered as the most valiant being. She is the one who manages home, suffers so much pain, and sacrifices so much for her family. A woman gives so much to the society but in return what does us as a society gives her? Nothing instead women are prohibited to enter the temples and in some families, they are not even allowed to enter the kitchen are made to sleep on the floor, not allowed to

⁹ Rashni Suriyaarachchi [Period lesson plan: guide to menstruation for teachers] [unicef.org] [Last visited: 25 JULY, 2021 18:43 PM]

¹⁰ Hindustantimes.com [By Aayushi Pratap, Mumbai
UPDATED ON DEC 19, 2016 10:20 AM IST] [Last visited: 25JULY, 2021 18:48 PM]

touch things and many more such ill-beliefs are being practised when a girl starts bleeding. What a woman during her menstrual flow needs is the support and care of her family, for she has to go through a lot of pain, unintentional and unwanted mood swings that she has no idea why is happening and in spite of that she gathers all her courage and stands on her feet for their family. A woman didn't even let their families have the idea of what she has been going through, her mental and physical health used to get severely affected but she uttered no word. A girl at the age of 13-14 hits puberty and her period first starts, at such a young age when she is not even mature enough to think or understand such things, that what is happening to her, why is this happening to her, she bleeds but without caring of her thoughts and condition, they are made to follow such ill-beliefs and are even taught to teach the same to their girl child. The whole world of that girl changes upside down in an instance. A girl remembers how she used to feel so powerful only sometimes back when she was resembled as a Devi on the occasion of puja and now suddenly she is even prohibited to enter the puja room of her own house. That girl who started to believe that she belongs to the temple after called as a Devi, now all of a sudden she is not even permitted to touch those puja things, or enter the place where is thought she belonged. Who will give answer to the girl's questions? Who is responsible for what every such girl is going through? A girl at that age looks at everyone with the eyes of hope wondering if that person would clear all her doubts. That girl is unaware of the hypocrisy the people around her is showing. The time is evolving they say, but has the time really evolved even at a basic level to provide the rights and support to the women. Here in India, a girl is only worshipped till the time she has not attained her puberty and she has not menstruated.¹¹ In many urban areas, there are many temples and mosques where the women are completely prohibited to enter and perform their puja. There are men who are not even ready to talk about the menstruation but they are bold enough to stop the women from performing their religious rituals. Not only the men but the women at a much bigger level, who had already suffered such pain, instead of taking a stand for their girl child and understanding the child's pain, they made them follow such beliefs with strictness. The society is full of hypocrites, it is so shameful to be part of such a society.

Religious places where women are not allowed¹²

- 1) Lord Ayappa Temple, Sabarimala- This temple is located in Sabarimala, Lord Ayappa and does not allow women to enter in this temple. The main reason for not giving permission to women is mensuration. This practice has been followed for centuries. The apex judicial body of India states that these practices disturbs the gender equality in our country.
- 2) Nizamuddin Dargah, New Delhi- In New Delhi's Nizamuddin Dargah, women are barred from entering the sanctuary. Authorities in the dargah have made it very clear that although the Haji Ali Dargah of Mumbai may have been forced to open the doors of its sanctuary, but they will never allowed that.

¹¹ Thehindu.com [shivani vij] [UPDATED: MARCH 29, 2021 00:44 IST] [Last visited: 25 july, 2021 18:56 PM]

¹² Timesofindia.indiatimes.com [Updated: Aug 26, 2016, 16:22 IST] [Last visited: 25 july,2021 18:51 PM]

- 3) Lord Kartikeya Temple, Pushkar- It is said that women who dare to visit the Lord Kartikeya Temple of Pushkar will be cursed and not blessed. This is the reason why this ban is in place until now.
- 4) Jain Temples, Guna, Madhya Pradesh- at the Jain temples of Guna, in the northern part of Madhya Pradesh, women in western attire such as tops and jeans are barred from entering the temple by the community leaders.
- 5) Jama masjid, Delhi- the Jama Masjid in Delhi, which also happens to be the biggest of its kind in the country, does not allow the entry of women after sunset prayers also known as Maghrib.
- 6) Sree Padmanabhaswamy Temple, Kerala-Sree Padmanabhaswamy Temple located in Kerala, women are not allowed to enter the temple premises. Although women devotees can worship the God, but they are not allowed to volunteer inside the temple premises. Women officials, too, aren't allowed into the treasure premises, as reported by various sources.
- 7) Patbausi Satra, Assam-Patbausi Satra temple situated in Assam women are not allowed from entering the temple as they think the temple will become impure. The authorities of the temple are of the idea that menstruating women are unclean. In 2010, JB Patnaik – the-then Governor of Assam – and some women entered the temple in an attempt to break the rule. The ban, however, lifted after that incident.

This all shows that our country still believes in the customs and beliefs that are from dark ages. When viewed from point of humanity, these traditions which do not allow women to enter temple just because it consider women to be impure and unclean.

Many of the institutions mentioned have been ignoring various government orders, which is quite disturbing as it is an issue of law and order that they do not want to follow. People unite when there is any religious occasion, but these institutions are creating barriers and divisions. Everyone has a right to pray in our democratic and secular country.

CONCLUSION

It is great that we ask these questions now. Men and women should get equal opportunity at work, social life and everywhere. We are saying how unfair it is? The author thinks that we will see the changes in our lifetime. Courts have played a significant role in eliminating discriminatory religious practices in furtherance of social justice. However, this judicial intervention through use of essential religious practices test has enabled the courts to narrow down the religion to its idea of what it should be. Honouring traditions is complicated, since many are steeped in medieval darkness and discrimination. The clock should not be turned back to the ancient times where women were not free. By giving access to women, the state and the court will be giving them a signal that they will be saying "No" to a pernicious mind-set that believes women and men are not equal. Women should not wait, dear lord, women should not be required to wait any longer. For the Courts, these dispute are more than an

opportunity to strengthen gender equality in India. It gives the courts a chance to set a strong precedent in terms of adoption of a better approach towards horizontal application of fundamental rights and incorporation of constitutional morality into the Article 25 and Article 26 jurisprudence.