



1ST JIS UNIVERSITY MOOT COURT COMPETITION

PRELIMINARY ROUND & SEMI FINAL ROUND MOOT PROPOSITION

The Sabarimala temple, located in the Periyar Tiger Reserve in the Western Ghat mountain ranges of Pathanamthitta District of Kerala, is renowned for lakhs of pilgrims thronging it all through the year. Pilgrims trek the Neelimala to reach the shrine, which has 18 sacred steps, to worship Lord Ayyapa after undergoing strict religious vows for 48 days. The temple is also prominent for another reason — the selective ban on women entering it. Women aged between 10 and 50, that is those who are in menstruating age, are barred from entering the temple. While there is no restriction on women to worship Lord Ayyapa in any other temple, their entry is prohibited only in this temple alone.

The Indian Young Lawyers Association and five women lawyers approached the Supreme Court seeking a direction to allow entry of women into the temple without age restrictions. Another group of women, part of the "Happy to Bleed" campaign, has also sought the court's direction on whether society should continue to bear with "menstrual discrimination." Their petition contended that discrimination in matters of entry into temples was neither a ritual nor a ceremony associated with Hindu religion. Such discrimination was totally anti-Hindu. The religious denomination could only restrict entry into the sanctum sanctorum and could not ban entry into the temple, making discrimination on the basis of sex. The Travancore Devasom Board, which maintains the temple, had replied that the ban was in accordance with centuries-old tradition. Lord Ayyapa, being a Naishtika Brahmachari (one who has vowed to remain celibate). Another argument put forth by the temple authorities is that it is not possible for women to put up with the physical hardship, austerity and days of celibacy like men.

The on-going trial in the Supreme Court has also put the spotlight on a 1991 Kerala High Court judgment, which held that the restriction was in accordance with a usage from time immemorial and not discriminatory under the Constitution. Upholding the restrictions, the High Court, in its judgment, said: "According to 'The Sabarimala Thanthri', these customs and usages had to be followed for the welfare of the temple. He said only persons who had observed penance and followed the customs are eligible to enter the temple and it is not proper for young women to do so." Twenty-five years after this judgment, the Supreme Court has questioned the "logic" behind the restriction, even wondering whether there was any proof that women did not enter the sanctum sanctorum 1,500 years ago.

Earlier instances

The Sabarimala Temple tantri would perform a "purification ceremony" at the 18-sacred steps that lead to the sanctum sanctorum, whenever the rules are violated. The last ceremony took place in December 2011, after a 35-year-old woman managed to climb the "pathinettam

padi". In 2006, astrologer P. Unnikrishna Panicker conducted a "devaprasnam" at the temple and 'found' that there were signs of a woman having entered the sanctum sanctorum. Soon after this, yesteryear Kannada actor Jayamala said she had entered the temple and even touched the idol in 1987, when she was shooting for a movie.

Amidst outrage, the Kerala police filed a report, state the entire episode was "orchestrated to gain publicity." The case is pending in the Kerala High Court. Though, courts have generally not interfered in the traditions and practices followed in religious place, it has never failed to uphold equality whenever discrimination was reported. In this conflict of worshipping rights versus customs, all eyes are now on the Supreme Court.

Prepare memorials/arguments for both Petitioner and Respondent to present them before the Moot Court.

S U P R E M E C O U R T O F I N D I A: Writ Petition(s)(Civil) No(s).373/2006

INDIAN YOUNG LAWYERS ASSOCIATION & ORS. Petitioner(s) V. THE STATE OF KERALA & ORS. Respondent(s)

