

Young Indian Lawyers Association v. The State of Kerala

Writ Petition (Civil) No. 373 of 2006 (Sept. 2018)

Summary

The Sabarimala Temple is a Hindu temple located in a temple complex in the Pathanamthitta district of the Indian state of Kerala. It draws the largest annual pilgrimage in the world, with an estimated 40-50 million devotees visiting every year.¹

At least since 1950, women of menstruating age (between 10-50 years) had been prohibited from entering the Sabarimala Temple. Even before 1950, women were allowed into the Temple only on certain days. Reports dating back to the 19th century record that women of menstruating age were not allowed to enter the premises of the Temple complex because Lord Ayyappa is housed there in his celibate form.² The restriction was considered necessary to avoid “even the slightest deviation from celibacy.”³ This was a unique restriction in the context of the Hinduism, because as a general rule, women are not prohibited from entering Hindu temples.

Petitioners filed a writ petition before the Supreme Court of India requesting that the Court direct the Government of Kerala, Devaswom Board of Travancore, the Chief *Thanthri* of Sabarimala Temple and the District Magistrate of Pathanamthitta to allow all female devotees to enter the Lord Ayyappa Temple at Sabarimala (“Sabarimala Temple”).⁴

This case was heard by a 5-member Constitutional Bench.⁵ By a 4-1 majority, the Court decided that the followers of Lord Ayyappa did not constitute a religious denomination and that the prohibition on the entry of a sub-section of women into the Sabarimala Temple violated women devotees’ right to freely practice Hindu religion. The Court also held that Rule 3(b) violated § 3 of the 1965 Act.

Questions Addressed by the Court

The three central questions addressed by the Supreme Court in this case were:

- Do the followers of Lord Ayyappa constitute a religious denomination, which as a result the right to manage their own affairs in the matters of religion?

¹ *Why Millions Throng Sabarimala Shrine*, DAILY BHASKAR (Jan. 15, 2011), <https://daily.bhaskar.com/news/NAT-TOP-why-millions-throng-sabarimala-shrine-1755207.html>.

² *Young Indian Lawyers’ Association v. State of Kerala* (2018) at 8, https://sci.gov.in/supremecourt/2006/18956/18956_2006_Judgement_28-Sep-2018.pdf.

³ *Id.*

⁴ *Id.*

⁵ INDIA CONST. art. 143, § 3, https://www.india.gov.in/sites/upload_files/npi/files/coi_part_full.pdf (Article 145(3) of the Constitution requires at least 5 judges to hear cases that involve “a substantial question of law as to the interpretation” of the Constitution).

- Does the prohibition on the entry of women of menstruating age into the Sabarimala Temple constitute a violation of their religious rights?
- Does Rule 3(b) of the Kerala Hindu Places of Public Worship (Authorization of Entry) Rules, 1965 (“Rule 3(b)”) violate § 3 of the Kerala Hindu Places of Public Worship (Authorization of Entry) Act, 1965 (“§ 3 of the 1965 Act”).

Court’s Analysis

Do Followers of Lord Ayyappa Constitute a Religious Denomination?

Subject to public order, health and morality, Article 26 of the Indian Constitution guarantees to every religious denomination the right to manage its own affairs in matters of religion.⁶ Section 3 of the Kerala Hindu Places of Public Worship (Authorization of Entry Act), 1965 opens public places of worship to all sections and classes of Hindus. The proviso to §3 stipulates that where a place of public worship is a temple founded for the benefit of any religious denomination, the rights warranted under §3 become subject to the rights of that religious denomination to manage its own affairs in matters of religion. If followers of Lord Ayyappa constituted a religious denomination, the Court would have had to address whether the right of the followers to manage their own religious affairs gave them the right to prohibit the entry of a sub-section of women into the Sabarimala Temple.

However, the Court ruled that followers of Lord Ayyappa do not constitute a religious denomination. According to the Court, only a collection of individuals having a common faith, a common organization which adheres to the common faith, and a distinct name by which it is recognized can be termed a religious denomination.⁷ The Court decided that followers of Lord Ayyappa did not constitute a religious denomination because (a) there is no identified group called Ayyappans; and (b) there is no common faith specific to the followers of Lord Ayyappa that distinguishes them from ordinary Hindus.⁸

Does the prohibition on the entry of women of menstruating age into the Sabarimala Temple constitute a violation of their religious rights?

Article 25 of the Indian Constitution guarantees to all persons the right to freely profess, practice and propagate religion. The Court extensively cited case law in favor of the proposition that Article 25 protects the freedom of individuals to conduct rituals or ceremonies which constitute essential religious practices.⁹ The Court ruled, however, that the protection did not extend to the practice at

⁶ *Supra* note 2 at 56.

⁷ *Id.* at 61.

⁸ *Id.* at 61-62.

⁹ *Id.* at 72.

issue because it did not constitute an essential religious practice within the Hindu religion. The Court reasoned that there was no textual or spiritual evidence for the proposition that menstruating women's exclusion from the Sabarimala Temple constitutes an essential religious practice. It refused to look at whether the prohibition was an essential religious practice among the followers of Lord Ayyappa, specifically, because the Court concluded that followers of Lord Ayyappa were not a religious denomination. It reasoned that there was no identified group called the Ayyappans. Further, any male Hindu devotee can enter the temple and there are other temples for Lord Ayyappa which do not prohibit the entry of women.

To reach the conclusion that the prohibition did not constitute an essential religious practice within the Hindu religion, the Court reasoned that there was no textual or spiritual evidence for the proposition that menstruating women's exclusion from the Sabarimala Temple constitutes an essential religious practice. Further, the "unhindered continuity" of a practice required for it to attain the status of an essential practice was not present here, given that prior to 1950 women of all age groups used to visit the Sabarimala temple for the first rice-feeding ceremony of their children. Instead, the Court held that the exclusion violated Hindu women's religious rights by preventing them from freely expressing their devotion to Lord Ayyappa.¹⁰ The Court said that Article 25 guarantees not only inter-faith parity but also intra-faith parity, which this exclusionary practice undermines.¹¹

Does Rule 3(b) violate § 3 of the 1965 Act?

The Court held that Rule 3(b) was contradictory to § 3 of the 1965. It reasoned that an ordinary meaning analysis of § 3 reveals that every place of worship open to Hindus shall be open to all sections of Hindus. By imposing a limitation on the entry of Hindu women of menstruating age into the Sabarimala Temple, Rule 3(b) contradicted § 3 of the 1965 Act and was therefore, *ultra vires*.¹²

Implementation of the Judgement

Since the Supreme Court pronounced its judgment, several women have attempted to enter the Sabarimala Temple.¹³ However, in many instances, their entry was followed by violent protests, many carried out by young men with the backing of the Hindu nationalist Bharatiya Janata Party,

¹⁰ *Id.* at 64.

¹¹ *Id.* at 65.

¹² *Id.* at 50.

¹³ *Sabarimala: Indian Women Make History by Entering Temple*, BBC (Jan. 2, 2019), <https://www.bbc.com/news/world-asia-india-46733750>; *51 Women Have Now Entered Sabarimala: Kerala*, INDIA TODAY (Jan. 18, 2019), <https://www.indiatoday.in/india/story/51-women-enter-sabarimala-temple-1433823-2019-01-18>.

which governs India.¹⁴ In January 2019, the temple priests closed the shrine to “purify” it of the women’s presence. Simultaneously, the Supreme Court has received petitions requesting it to review its decision.¹⁵

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¹⁴ Supriya Nair, *Two Women Enter a Temple. A Country Erupts*, THE NEW YORK TIMES (Jan. 8, 2019), <https://www.nytimes.com/2019/01/08/opinion/india-women-sabarimala-temple.html>

¹⁵ *Id.*