

IN THE SUPREME COURT OF INDIA

WP NO. 373/2006

Indian Young Lawyers Association & ors.

Petitioners

Vs.

The State of Kerala & Ors.

Respondents

**(WRITTEN SUBMISSIONS OF ADV. V K BIJU
SUPPORTING THE RESPONDENTS)**

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1. It is respectfully submitted that Sabarimala is a Hindu pilgrimage center, located in Kerala. It is the largest annual pilgrimage in the world with an estimated 50 million devotees visiting every year. Sabarimala is a shrine for lord [Ayyappan](#), who is a chronic bachelor or "brahmachari".

He took a vow of celibacy due to which women are not allowed into the premises. The Sabarimala pilgrimage ritual is also very stringent and difficult. It involves 41 days of celibacy, cooking one's own food, wearing all black, not wearing footwear, not trimming or shaving body hair and nails and wearing the sacred garland (mala). It is also connected with belief, rituals, usage and custom etc.

2. That there is no God inside Sabarimala, The divinity energy inside a temple is called a deity. God is an omnipresent idea, but the concept of deity is a specific socio spiritual energy centre. Many people are confusing and misunderstand Right to Pray to God and Right, Regulations for praying to a Deity. In Sabarimala there is no Gender discrimination but age regulation because the peculiar nature of deity. Deity is Brahmacharya means, the devotees should observe naishtikabrahmacharyam.
3. When a Deity is installed or pranaprathista being done, A Mool Mantra and rituals of that particular temples are created. Each temple is unique and different. In Sabarimala.. (REF 2 pictures) Idol is of SwamyAyyappa in NaishtikaBrahmachari bhava. the deity and the consecration are for specific purpose and the temple has a specific policy too. The policy is reflected

in the rituals and practices of the temple. If these things are changes, that amount to changing the whole nature of temple itself. which will be violating Article 25.

4. Sabarimala is also unique as it uphold India's pluralistic culture too. An Islamic mosque is the part of the pilgrimage called Erumeli Mosque and also legends associate Arthunkal Church to Sabarimala too. Sabarimala never had casteism or communalism or religious chauvinism and it had a great role in upholding spiritual pluralism in our nation.
5. It is further submitted that In the centuries old history of Sabarimala, there were never casteism and communalism and all castes & religions were welcome into Sabarimala. ***Inside the temple premises itself there are special Shrines for a deity who is Scheduled Tribe and even an Islamic Shrine of Bavar which will be very rare in the world. An Islamic Shrine inside a Hindu Temple premise celebrated & respected for centuries is a true reflection of India's secularism & pluralism.***
6. It is important to note that Sabarimala is not a Vedic temple, **it is a Tantric Temple**. It also accepts Mahavakyas of Vedas & Vedanta and has "Tatwam Asi" written in the front. The foundation of Sabarimala Deity worship system is Tantric.
7. *The importance of Sabarimala can be understood from the British Records of 1816 Where 2 British lieutenants Ward & Conner went over the then Kerala for Census and recorded that.... ' 15,000 people come to Sabarimala, People from the most remotest corners of India visit it, Lots of Women also come here, but young women are having regulations as the Deity is Celibate.*
8. It is respectfully submitted that from 2010 – 2017 about 15 LakhS plus women visited Sabarimala. Therefore the Petitioner is misunderstood the case, and because of this reason itself the Writ Petition to be dismissed. It is a fact that women from all fields and from all over the country and from the outside the country coming to Sabarimala every year.

9. It is a fact that there is only age regulation as there are regulations for Men too in Ladies Sabarimala Attukal and Chakkulathu kavu. The ladies Sabarimala is there in Guinness book of World records for the largest congregation of Woman. Sabarimala and Ladies Sabarimala are only like Male College & Female College. However College is a Temple for Learning & Temple is a College of Learning Rituals & Spirituality.

10. Sabarimala Tantric System is designed to invoke Naishtika Brahmachari & Ojas in a Man -

Vivekanand on Naishtika Brahmachari - Absolute Chastity - Naishtika Brahmacharya (in Sabarimala system for 41 days as it is temporary Sannyas giving the insight to a householder, grihastha to Sannyas) [From *Complete Works, Volume VI, Lessons on Raja Yoga*—(the world famous book of Vivekananda)]

“The "Ojas" is that which makes the difference between man and man. The man who has much Ojas is the leader of men. It gives a tremendous power of attraction. Ojas is manufactured from the nerve-currents. It has this peculiarity: it is most easily made from that force which manifests itself in the sexual powers. If the powers of the sexual centres are not frittered away and their energies wasted (action is only thought in a grosser state), they can be manufactured into Ojas. The two great nerve currents of the body start from the brain, go down on each side of the spinal cord, but they cross in the shape of the figure 8 at the back of the head. Thus the left side of the body is governed by the right side of the head. At the lowest point of the circuit is the sexual centre, the Sacral Plexus. The energy conveyed by these two currents of nerves comes down, and a large amount is continually being stored in the Sacral Plexus. The last bone in the spine is over the Sacral Plexus and is described in symbolic language as a triangle; and as the energy is stored up beside it, this energy is symbolized by a serpent. Consciousness and sub consciousness work through these two nerve-currents. But super consciousness takes off the nerve-current when it reaches the lower end of the circuit, and instead of allowing it to go up and complete the circuit, stops and forces it up the spinal cord as Ojas from the Sacral Plexus. The spinal cord is naturally closed, but it can be

opened to form a passage for this Ojas. As the current travels from one centre of the spinal cord to another, you can travel from one plane of existence to another. This is why the human being is greater than others, because all planes, all experiences, are possible to the spirit in the human body. We do not need another; for man can, if he likes, finish in his body his probation and can after that become pure spirit. When the Ojas has gone from centre to centre and reaches the Pineal Gland (a part of the brain to which science can assign no function), man then becomes neither mind nor body, he is free from all bondage.

The great danger of psychic powers is that man stumbles, as it were, into them, and knows not how to use them rightly. He is without training and without knowledge of what has happened to him. The danger is that in using these psychic powers, the sexual feelings are abnormally roused as these powers are in fact manufactured out of the sexual centre. The best and safest way is to avoid psychic manifestations, for they play the most horrible pranks on their ignorant and untrained owners.

To go back to symbols. Because this movement of the Ojas up the spinal cord feels like a spiral one, it is called the "snake". The snake, therefore, or the serpent, rests on the bone or triangle. When it is roused, it travels up the spinal cord; and as it goes from centre to centre, a new natural world is opened inside us—the Kundalini is roused."

11. It is respectfully submitted that the Sabarimala temple is a unique in nature and its deity is sitting in yogaasana form. Aiyappa deity is extremely much different from other Hindu idols and usually three positions are there in which the Hindu idols can be seen erected in the temples – sitting, standing or lying. Yogasana is mediating post and considered as Naishtika Brahamchari (observing Celibacy).

12. **The reason of Naishtik Brahamcharya**

The first is of a student or Brahamchari, the second is of a householder after getting married, the third is the Vanaprastha or a life of recluse and the last is of an ascetic or Sanyasi. Justice Sri BK Mukherjee in his Lordships Tagore

law Lecture on the Hindu Law of Religious and Charitable Trust says at Page 16 of the second addition thus:

“Ordinarily therefore a man after finishing his period of studentship would marry and become a house holder, and compulsory celibacy was never encouraged or sanctioned by the Vedas. A man however who was not inclined to marry might remain what is called a Naishtik Brahamchari or perpetual student and might pursue his studies living the life of a bachelor all his days.”

A Brahamchari should control his senses. He has to observe certain rules of conduct which include refraining from indulging in gambling with dice, idle gossips, scandal, falsehood, embracing, and casting lustful eyes on females, and doing injury to others.

13. According to Vivekananda's complete works –
The Indian concept Brahamcharya and western Concept Celibacy are not exactly same. The celibacy means a state of being unmarried and sexually abstinent, but Brahamcharya is stricter, it is only includes Karmanamasavaca.

Sarvasathasusarvada

Sarvatramaithuna – tyago

Brahamcaryampracaksate

(Karmana= work, manasa- mind, vaca = words, sarvatra = everywhere, maithuna- tyago = leave sexuality.

In Hinduism someone who is observing Brahamcharya must abstain from Ashtanga Maithuna

Smaranamkirtanamkelih

Preksanamuguhyabhasanam

Sankalp 'dhyavasayasca

Kriya-nirvrttirevaca

(A Brahmachari should not think about people of opposite sex, speak about sex life, romantically mix with anyone of opposite sex, look lustfully, talk intimately with women. Plan to engage

in sexual intercourse, endeavor for sex life, engage in sex life, encourage other's lust.)

According to Swami Vivekananda's description: "Chastity is thought, word, and deed always and in all conditions, is what is called Brahmacharya."

- ❖ Brahmacharya should be like a burning fire within the veins.
- ❖ By the establishment of continence energy is gained. The chaste brain has tremendous energy and gigantic will power. Without chastity there can be no spiritual strength. Continence gives wonderful control over mankind. The spiritual leaders of men have been very continent, and this is what gave them power. Therefore the Yogi must be continent.
- ❖ Complete continence gives great intellectual and spiritual power. The Brahmacharin must be sexually pure in thought, word, and deed. Lose regard for the body, get rid of the consciousness of it so far as possible.
- ❖ Even he, born of a foreign nationality and living in a foreign land, can understand the meaning of our Brahmacharya as the only way to the attainment of spirituality, and believes that it is not even in these days rare in India, whilst the hypocritical heroes of our own household are unable to see anything else than carnal relationship in the matrimonial union.
- ❖ 3Everyone wants to command, and no one wants to obey, and this is owing to the absence of that wonderful Brahmacharya system of yore.
- ❖ If the performance of Yajnas in the corner stone of the work portion of the Vedas, as surely is Brahmacharya the foundation of the knowledge portion.
- ❖ In order to attain to ideal Brahmacharya one has in the beginning to observe strict rules regarding chastity. Not only should one keep oneself strictly aloof from the last

association with the opposite sex, but also give up the company of married people even.

- ❖ Is there a greater strength than that of Brahmacharya-purity, my boy?
- ❖ Save the spiritual store in your body by observing continence.
- ❖ Teach the boys the system of Brahmacharya.
- ❖ The modern system of education gives no facility for the development of the knowledge of Brahman. We must found Brahmacharya homes as in times of old.
- ❖ The Sanskrit name for a student, Brahmacharin, is synonymous with the Sanskrit word Kamajit. Our goal of life is Moksha, how can that be ever attained without Brahmacharya or absolute continence? Hence it is imposed upon our boys and youth as an indispensable condition during their studentship. The purpose of life in the west is Bhoga, enjoyment, hence much attention to strict Brahmacharya is not so indispensably necessary with them as it is with us.
- ❖ In his Raja Yoga, the Swami explains that through Brahmacharya sex energy is converted into a higher form of psychic energy called 'ojas' (Ojas, literally meaning the 'illuminating' or 'bright' is the highest form of energy in the human body. In the spiritual aspirant who constantly practices continence and purity, other forms of energy are transmuted into ojas and stored in the brain, expressing as spiritual and intellectual power). He says, "The Yogis say that part of the human energy which is expressed as sex energy, in sexual thought, when checked and controlled easily becomes changed into ojas, and as the Muladhara, (lowest of the six centres of consciousness) guides these, the yogi pays particular attention to that centre. He tries to take up all his sexual energy and convert it into ojas.

It is only the chaste man or women who can make the ojas rise and store it in the brain; that is why chastity has always

been considered the highest virtue. A man feels that if he is unchaste, spirituality goes away, he loses mental vigour and moral stamina. That is why in all the religious orders in the world which have produced spiritual giants you always find absolute chastity insisted upon. That is why the monks came into existence, giving up marriage. There must be perfect chastity in thought, word and deed; without it the practice of Raja Yoga is dangerous, and may lead to insanity. If people practice Raja Yoga and at the same time lead an impure life, how can they expect to become yogis?" True copy of the relevant chapter of Raja Yoga of Swami Vivekananda is hereby annexed as **ANNEXURE A-1**. (Page from ____ to ____)

14. That in Bhagwatgita clearly says about Dhyana Yoga. Verse 14 of chapter 6 of Bhagwatgita specially deals with the celibacy and meditation. True copy of the verse 14 of chapter 6 of Bhagwatgita, with its translation is hereby annexed as **ANNEXURE A-2**. (Page from ____ to ____)

15. Sabarimala Uniqueness –

Sabarimala is a very unique temple. Even when there were Casteism & Untouchability in India, Sabarimala never had any of these evils in it. In the centuries old history of Sabarimala, there were never casteism and communalism and all castes and religious were welcome into Sabarimala. Inside the temple premises itself there are special shrines for a deity who is OBC, a deity who is schedule tribe and even an Islamic Shrine of Bavar which will be very rare in the world. An Islamic Shrine inside a Hindu temple premise celebrated and respected for centuries is a true reflection of India's secularism & pluralism.

16. Sabarimala is not a Vedic temple, it is a tantric temple. It also accepts Mahavakyas of Vedas and vendanta and has "Tatwam Asi" written in the front. The foundation of Sabarimala Deity worship system is Tantric. There are lacs of women coming to Sabarimala every year from 2010 to 2017, more than 15 lacs women visited Sabarimala therefore, the Petitioners absolutely

misunderstood the entire case, as there is only an age regulation. It is respectfully submitted that the entire income/donation coming to the Sabrimala Temple is directly going to the Government and it is about 300 crores Income per year reaching to the Government. Out of the said amount the Government giving only Rs. 8 Lakhs to the Sabarimla. Therefore, the allegation that the Sabarimala is functioning on the basis of Government Fund is absolutely false.

17. Temples only for ladies in Kerala

It is important to note that the very famous Attukal Devi temple popularly known as ladies Sabarimala in the special Puja of “Ponkala” to Devi is only permitted to ladies and lacs of ladies attending the same. It is a fact that some persons who challenged for the entry of men in such Puja, the High Court has dismissed the said petition.

It is also important to note that another famous temple Chakkulathukvu. In the said temple, the famous puja called “Nari Puja” is permitted and allowed for ladies, therefore, the age regulation in Sabarimala is just like male college and female college and college is temple for learning and temple is a college for learning rituals and spirituality.

18. Temples, where only ladies can enter

- a. Ladies Sabarimala/ Attukal devi temple, Trivandrum – the Ponkala Puja only for ladies and man cannot do the same.
- b. Chakkulathukvu temple nari puja meant for ladies.
- c. Lord Braham at Pushkar Rajasthan.
- d. Bhagwati Ma temple in Kanyakumari
- e. Mata temple in Muzzafarpur in Bihar
- f. Kamrup Kamakhya temple, Assam.
- g. It is important to note that at Chengannoor Devi Temple the main celebration is called “Triputh”, which is, as per the belief, Menstruation of the main Idol Devi is a blessing to the devotees. The same is also in Kodungalloor Devi Temple as Kavutheendal.

Therefore, if anybody approaching this Hon'ble Court under art. 32 for the entry of men in the above said ladies temple, it is difficult to decide as in the present case. However, it can easily be seen that each and every temple its construction, consecration of deity purely depend the custom and rituals and the same is protected under Art. 25 & 26.

19. It is also important to note that deity of KEDARNATH. The temple of KEDARNATH has no idol in it. It is the undulating surface of stone which is worshipped there as the deity. Still another example of such a deity is the Vishnupad temple at Gaya that too has no idol in it. The place which is believed to have born the footprints of Bhagwan Vishnu is worshipped as deity. Similarly, at Ayodhya, the very sthan Sri Ram Janma Bhumi is worshipped as a deity through such symbols of the divine spirit as the Charan and the Sita Rasoi.

20. **The Kerala high court in S. Mahendran vs. State of Kerala (annexure P-7 in the writ petition) clearly held at para 39** that "...There is a vital reason for imposing this restriction on young women. It appears to be more fundamental. The Thantri of the temple as well as some other witnesses have stated that the deity at Sabarimala is in the form of a Naisthik Brahamchari. "Brahamchari" means a student who has to live in the house of his preceptor and study the Vedas living the life of utmost austerity and discipline. A student who accompanied his Guru wherever he goes and learns Vedas from him is a "Naisthikan". Four asramas were prescribed for all persons belonging to the twice born castes.

"40. The deity in Sabarimala temple is in form of a Yogi or a Brahamchari according to the Thantri of the temple. He stated that there are Sasta temples at

Achankovil, Aryakavu and Kulathupuzha, but the deities there are in different forms. Puthumana Narayan Namboodiri, a Thanthrimukhya recognized by the Travancore Devaswom Board, while examined as CW 1 stated that God in Sabarimala is the form of Naisthik Brahamchari. That according to him, is the reason why young women are not permitted to offer prayers in the temple.

“41. Since the deity is in the form of a Naishtik Brahamchari, it is therefore believed that young women should not offer worship in the temple so that even the slightest deviation from celibacy and austerity observed by the deity is not caused by the presence of such women.

It is also important to note that the 3 witnesses before the high court never deposed to the effect that menstruation is the reason for implementation of the age regulation in the Sabarimala temple. Therefore, the above submissions about Naishtik Bhramchari is extremely important for the adjudication of the present case.

It is important to note that Para 5 of the high court' judgment the board categorically agreed that the Tantri is the ultimate authority in the religious issues. However, in the present case herein Tantri neither appear or has not been filed any affidavit to bring the truth before this court.

- 21. This Hon'ble'ble Court in Sri Marthanda VARMA VERSUS State of Kerala in Slp © No 11295 of 2011 held....In the issue of the tantric and rituals the Chief Tantri is the prime authority.....'** True copy of the order dated 9.10.2015 in Sri Marthanda Varma Versus State of

Kerala in Slp © No 11295 of 2011 is hereby annexed as **Annexure. A3 (Pg to)**

22. The state govt. is taking different stands by filing different affidavits the board and tantri also taking different stands before the high court and this Hon'ble Court. Therefore, as stated by the Government in its first affidavit at para 4, an appropriate commission to be appointed

In the above circumstances, it is respectfully submitted that as the state govt. submitted in its 1st affidavit at para 4 that to appoint an appropriate commission is the only remedy to analyze the truth. It is also appropriate to take the opinion of the Sabarimala Tantri also qua Tantri and rituals issues. In the said counter affidavit, it can clearly seen that the kerala govt. relied 2 persons to give such an opinion one is (i) K.L. Mohana Verma happened to be a novelist (ii) Ambalapurzha Ramaverma, a professor. Therefore, the Govt. of Kerala did not take any historic evidence in regard to the custom, usage and rituals of Sabarimala temple before filing the said affidavit. It is also a fact that the Govt. never consulted any religious groups or the devotees in filing the said counter affidavit. In these circumstances, it is essential to have an appropriate commission for analyzing the truth as held by this Court in Para 14 of the Bandhua Mukti Morcha case. The deity of a temple is a juristic person and its right is unquestionable.

23. The writ Petition is not maintainable as per the seven Judges Bench Decision.

a. That as per the decision of Seven Juges Bench Judgment *Daryao and others V. The State of U.P. and Others* reported in 1962 SCR 574 held at page 592, “against a speaking order under Article 226 only appeal is maintainable not article 32 petition.” True copy of the judgment Seven Juges Bench Judgment *Daryao and others V. The State of U.P.* reported in 1962 SCR 574 annexed herewith as **Annexure A4 (pages to)**

b. In State of Karnataka v. All India Manufactures Org. & Ors. Reported in 2006 (4) SCC 683, three Judges Bench of this Hon'ble Court held “.. the previous decision in a PIL cannot be challenge again with another PIL.

24. The PIL filed without any evidence and with frivolous grounds bound to be dismissed.

a. In the case of Tehseen Punawala v. Union of India reported in 2018 (6) SCC 72 categorically held in para 96 to 98 the frivolous PILs to be dealt with strong hands of law. True copy of the Tehseen Punawala v. Union of India reported in 2018 (6) SCC 72 annexed herewith as **Annexure A5 (pages to)**

(The writ petition para 1 & 2 clearly stated that the petitioners do not have any personal knowledge except the articles published in the News papers. The author of the article at page 29 also held that she don't have any information about the Sabarimala issue)

25. It is a fact that at any stage question of maintainability can be raised

a. In the case Tarini Kamal Pandit v. Prafulla Kr. Chatterjee reported in 1979 (3) SCC 280 at para 14 held pure question of law can be raised at any stage during the litigation.

26. The right of the Deity has to be protected

a. Bishwanath and anr. Vs. Shri Thakur Radhaballabhji & Ors. Reported in 1967 (2) SCR 618, held worshiper is entitled to protect the interest of deity. Copy of the judgment reported in 1967 (2) SCR 618 is hereby annexed as **ANNEXURE A-6.** (Pages from ____ to ____)

b. Pramlatha Nath Mallik Vs Pradhuma Kumar reported in AIR 1925 PC 139 deity is living person and a master. Copy of the judgment reported in AIR 1925 PC 139 is hereby annexed as **ANNEXURE A-7.** (Pages from ____ to ____)

27. Religious belief and right to exhibit belief as the devotee thinks proper, is also permitted under article 25.

a. In *Adi Saiva Shiva Chariyargal Nala Sangam v. State of Tamil Naidu* reported in 2016 (2) SCC 725 at paras 23, 32, 33, 24, 39 & 40 Held the underline provision of the Article 25 & 26 also extended Acts done in pursuance of religion and therefore contain a guarantee for rituals and observances.

b. This Hon'ble Court in *N. Adithayan vs. the Travancore Devaswom Board* reported in 2002 (8) SCC 106 held that at para 7 “freedom under art. 25 is not just only to entertain such religious belief, as may be approved of by this judgment and conscience but also to exhibit his belief in such outward acts as he thinks proper and to propagate or disseminate his ideas for the edification of others.

It is further held at para 16 that “It is now well settled that art.25 secures to every person, subject of course to public order, health and morality and other provisions of part-III, including Art. 17 freedom to entertain and exhibit by outward acts as well as propagate and disseminate such religious belief according to his judgment and conscience for the edification of others.”

28. The essential ingredients of religion has to be carefully examined with evidence. A S Narayana Deekshithulu Vs State of AP Reported in 1996 (9) SCC 548.

a. In the above judgment at para 5 held Article 14, 15, 17, 21, 25 & 26 prohibits discrimination on grounds only of caste, class, sect. etc

b. Para 42 to 48 dealt with religious experience and freedom.

c. Para 49 deals with Chitta, suddhi of Diety.

d. Para 116, 85, 84, 25, 26, 90, 81, 87, 88 says protection of belief and religious freedom.

e. Para 7 says about the role of Agamas.

In the case of held Religion as used in these Articles must be construed in its strict and etymological since. Religion is that which binds a man with his cosmic , his creator or super force.... Copy of the judgment reported in 1996 (9) SCC 548 is hereby annexed as **ANNEXURE A-8**. (Pages from _____ to _____)

29. It is not the duty of the court to make the law qua rituals, custom and usage but Govt.

- a. This Hon'ble Court in Riju Prasad Sharma vs. State of Assam reported in 2015 (9) SCC 461 at para 66 held “.....while performing judicial functions stricto sensu, the judiciary cannot and should not be equated with other organs of State – the executive and the legislature. This also fits in harmony with the concept of separation of powers and spares the judiciary or the courts to dispassionately examine the constitutionality of state action allegedly curbing or curtailing the fundamental rights including those under Articles 25 and 26.”
- b. Rituals are part of the religion and cannot be separated, therefore, right under article 25 & 26 cannot be curtail. In commissioner of olice vs. Acharya Jagdishvarananda reported in 2004 (12) SCC 770 as held “What is meant by an essential part or practices of a religion is now the matter for elucidation. Essential part of a religion means the core beliefs upon which a religion is founded.. essential practice means those practices that are fundamental to follow a religious belief. It is upon the cornerstone of the essential parts or practices the superstructure of religion is built. Without which, a religion will be no religion. Test to determine whether a part or practice is essential to the religion is – to find out whether the nature of religion will be changed without that part or practice. If the taking away of that part or practice could result in a fundamental change in the character of that religion or in its belief, then such part could be treated as an essential or integral part.

There cannot be additions or subtractions to such part. Because it is the very essence of that religion and alterations will change its fundamental character. It is such permanent essential parts is what is protected by the constitution. Nobody can say that essential part or practice of one's religion has changed from a particular date or by an event. Such alterable parts or practices are definitely not the 'core' of religion where the belief is based and religion is founded upon. It could only be treated as mere establishments to the non essential part or practices.”

- c. Constitution bench of this Hon'ble Court in Sardar Syedna Taher Saifuddin Sahev vs. State of Bombay reported in 1962 Suppl-II 496 at pg. 531, held that “.....the protection of these articles 25, 26), is not limited to matters of doctrine, their extent also to ex done in pursuance of religion and therefore contained a guarantee for rituals and observance, ceremonies and mourns of worships which are integral part of religion.”
- d. This Hon'ble Court in SP Mittal vs. UOI reported in 1983 (1) SCC 51 at para 12 clearly held their religious liberty under article 25, 26 to be protected.

30. Rule 3 (b) of the Kerala Hindu Places of Public Worship Rules Authorization of Entry Rules (Authorization of Entry) Rules, 1965 is absolutely in accordance with Art. 26 (a).

- a. Rule 3(b) says women at such time during which they are not by custom and usage allowed to enter a place of public worship (*it is important to note that the very meaning of custom and usage is not at all meant about menstruation / monthly periods*)

Article 26 (b) says “26. Subject to public order, morality and health every religious denomination or any section thereof shall have the right - (a) to establish and “**maintain**” institutions for religious and charitable purposes.

It can be seen that the word **maintain** actually is dealing with the continuation of the custom in temples and it does not mean **administration** therefore the character of deity

and custom and usage to be continued / maintain. **This Hon'ble Court in 1968 (1) SCR 833 at 853 interpreted the meaning of maintain held"establish and maintain must be read conjunctively and it is only institutions which a religious denomination establishes which it can claim to maintain...."** Copy of the judgment reported in 1968 (1) SCR 853 is hereby annexed as **ANNEXURE A-9**. (Pages from _____ to _____)

- b.** This Hon'ble Court in The commissioner of Hindu religious endowments madras vs. Sri Lakshmindra Thirtha Swamiar of Sri Shirur Mutt. held ".....rituals and observance and mode of worship which are also essential part of religion.."
- c.** The Hon'ble High Court decision is absolutely in accordance with the custom and usage of the temple by considering the interest of the deity.
- d.** The High Court in S. Mahendra vs. The secretary, Travancore, Devaswom Board, Trivandrum & Ors. Reported in AIR 1993 KER 42 at para 39 to 41:
- e.** In the matter of Ratila Panachand Gandhi Vs. The State of Bombay and Ors. -[1954] I SCR1055, a seven judges bench of this Hon'ble Court has held that:

"10. Article 25 of the Constitution guarantees to every person and not merely to the citizens of India the freedom of conscience and the right freely to profess, practice and propagate religion. This is subject, in every case, to public order, health and morality. Further exceptions are engrafted upon this right by clause (2) of the article. Sub-clause (a) of clause (2) saves the power of the State to make laws regulating or restricting any economic, financial, political or other secular activity which may be associated with religious practice; and sub-clause (b) reserves the State's power to make laws providing for social reform and social welfare even though they might interfere with religious practices. Thus, subject to the restrictions which this article imposes, every person has a fundamental right under our Constitution not

merely to entertain such religious belief as may be approved of by his judgment or conscience but to exhibit his belief and ideas in such overt acts as are enjoined or sectioned by his religion and further to propagate his religious views for the edification of others. It is immaterial also whether the propagation is made by a person in his individual capacity or on behalf of any church or institution. The free exercise of religion by which is meant the performance of outward acts in pursuance of religious belief, is, as stated above, subject to State regulation imposed to secure order, public health and morals of the people. What sub-clause (a) of clause (2) of article 25 contemplates is not State regulation of the religious practices as such which are protected unless they run counter to public health or morality but of activities which are really of an economic, commercial or political character though they are associated with religious practices.”

31. The right under articles 25 & 26 is wide.

1. Sheshammal Vs. Tamilnadu reported in 1972 (2) SCC 11 paragraph 13.
2. Adishiva Shivacharya Nala Sangam Vs. State of Tamilnadu reported in 2016 (2) SCC 725 para 23, 24, 39, 40, 32 & 33 .

32. Denomination in character

- a. This Hon'ble court in Sri Aad Vishwehswara of Kashi Vishwanath Temple, Varanasi vs. State of UP reported in 1997 (4) SCC 606 @ page 627 last 4 lines of para 23 recognized,followers of Sri Ramakrishna who are professing the line of teaching and doctrines of Sriramakrishna. The followers were considered to be denominational.....” *(Therefore in the present case Ayyappa devotees and their way to sabarimala and the observance for pilgrimage , all are totally different from other Temples.)*

33. The very Restrictions envisaged in Articles 25 and 26

34. are really meant to restrict and control the “extreme cruel practices like sati, Devadasi system etc... Therefore Article 14 cannot apply in to the reasonable religious freedom as there is no restriction as a class against ladies but only a regulation.

a. Commonwealth Australia Debates dated 7.2.1898 (see Pg. , Sir Edward Braddon). Copy of the Commonwealth Australia Debates dated 7.2.1898 is hereby annexed as **ANNEXURE A-10(Pages to)**

b. Order dated 13.2.2014 Passed by this Hon’ble Court in Devadasi case. Copy of the order dated13.2.2014 is hereby annexed as **ANNEXURE A-11(Pages)**

c. Directions/Order dated 12.2.2016 Passed by this Hon’ble Court in Devadasi case (Pg to). Copy of the order dated12.2.2016 is hereby annexed as **ANNEXURE A-12(Pages to)**

d. Triple talaq Judgment

Submitted by:

V K BIJU

Advocate-On-Record
2, Lawyers Chambers
Supreme Court of India
New Delhi-1
9650939333
bijuvkaor@gmail.com

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New Delhi.