

**'Nobody has an exclusionary right of temple entry'**

"In a public place of worship, a woman can enter, where a man can go. What applies to a man, applies to a woman," Chief Justice Misra observed on Wednesday in the Sabarimala temple entry case.

He was leading a Constitution Bench hearing the question whether the fundamental right of women to pray at the place of their choice can be discriminated against solely based "on a biological factor (menstruation) exclusive to the female gender."

The Kerala government pointed out to the Bench that the State supported entry of women into the Sabarimala temple. In 2016, the State had opposed it in the Supreme Court.

Senior advocate Indira Jaising, for the petitioners, argued that "religion is a relationship between you and your creator."

"There is nothing in health, morality or public order that prevents a woman from entering and offering worship in a temple opened for the public... The prohibition in Sabarimala is discrimination not just on gender but sex. Menstruating women are viewed as polluted," Ms. Jaising submitted.

Justice D.Y. Chandrachud said women and their physiological phenomena are creations of God. If not God, of nature.

"A woman is a creation of God, if you don't believe in God, then of nature. Why should this (menstruation) be a reason for exclusion for employment or worship or anything," he said.

He quoted Article 25 (1) which mandates freedom of conscience and right to practise religion. "All persons are equally entitled to freedom of conscience and the right freely to profess, practise and propagate religion..."

"This means your right as a woman to pray is not even dependent on a legislation. It is your constitutional right. Nobody has an exclusionary right of entry to a temple," Justice Chandrachud observed.

Chief Justice Misra pointed out that there were many temples which allowed visitors only up to a certain point, but there are none which ban entry to the temple in total.

Justice Rohinton Nariman, also on the Bench, observed that the Constitution upheld the ideals of liberty of thought, expression, belief and faith, be it for man or woman.

Ms. Jaising submitted that Rule 3 (b) of the Kerala Hindu Places of Public Worship (Authorisation of Entry) Rules, 1965 allows a "religious denomination" to ban entry of women between the age of 10 to 50. She said the discrimination was a violation of the rights to equality and gender justice.

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