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Syllabus: GS paper 1: Women issue, GS paper 2: Judiciary

'Supreme court has been at the forefront in reformation of religion in India'. Discuss in light of the recent Kerala's Sabarimala temple Supreme court judgement.

Why in news?

- In a recent judgement the Supreme Court allowed women, irrespective of their age, to enter Kerala's Sabarimala temple.

What is the verdict?

- In a 4-1 majority, the court struck down provisions of the Kerala Hindu Places of Public Worship (Authorisation of Entry) Rules, 1965.
- The Rules banned women between the age of 10 and 50 from entering the Sabarimala temple, a practice in place for centuries.
- The judgment came over a clutch of petitions challenging the ban, which was upheld by the Kerala High Court.

What is the SC's rationale behind the verdict?

- The Constitution protects religious freedom in two ways:
 1. protects an individual's right to profess, practise and propagate a religion
 2. assures protection to every religious denomination to manage its own affairs

- The Sabarimala temple case represented a conflict between -
 1. the group rights of the temple authorities in enforcing the presiding deity's strict celibate status
 2. the individual rights of women in 10-50 age group to offer worship there

- The Travancore Devaswom Board (TDB) had argued that they form a denomination and hence be allowed to make rules.
- The court instead ruled that Ayyappa devotees do not constitute a separate religious denomination.
- It held that prohibition on women is not an essential part of Hindu religion, and hence the court can intervene.
- The judgement establishes the principle that individual freedom prevails over professed group rights, even in matters of religion.
- The judgement relooks at the stigmatisation of women devotees based on a medieval view of menstruation as symbolising impurity and pollution.
- So much so, exclusion based on the notion of impurity is a form of untouchability.
- Also, the argument that women of menstruating age could not observe the 41-day period of abstinence failed to make sense.
- The court noted that any rule based on segregation of women pertaining to biological characteristics is unconstitutional.

What was the dissenting Judge's remark?

- Justice Malhotra was the lone woman on the bench who had a dissenting view.
- She noted that what constitutes essential religious practice is for the religious community to decide and not the court.
- Notions of rationality cannot be brought into matters of religions.
- Balance needs to be struck between religious beliefs on one hand and Constitutional principles of non-discrimination and equality on the other.
- She also stated that the present judgment would not be limited to Sabarimala but will have wide ramifications.
- So issues of deep religious sentiments should not be ordinarily interfered into by the Court.

What makes the Sabarimala case unique?

- Ayyappan of Sabarimala is worshipped as a celibate god.
 - Pilgrims are expected to practice celibacy and abstinence during the 41-day vratam (pious observances).
 - Sabarimala stands out among Kerala's temples spaces for its accommodation of all devotees irrespective of religion and caste.
 - It has thus helped the shrine administrators to evade the rights test - in this case, that of women of a particular age group.
 - The unique and site-specific tradition also kept it outside the purview of the historic temple entry protests.
 - The Travancore Devaswom Board is thus likely to file a review petition after securing support from other religious heads.
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