Sabrimala & The Quest of Equality

Gyan Prakash Kesharwani[1]

Abstract

2018 resulted to be a year of judicial review, where the Supreme Court delivered several important judgements from Aadhar to Sabrimala but the Judgement of Supreme Court in Sabrimala Issue became a huge national controversy between the women of menstruating age and the right to equality. Reports of violence and opposition of devotees of Lord Ayappa became one of the major headlines form the day of judgement itself. This paper is an attempt to find out the knowledge of people about the judgement of the hon'ble court and their views upon the judgement. Many review petitions are being filed to the Supreme Court on the basis of customs being an indistinct part of religion and there is huge number of people on and against both the side of the issue. This paper is an initiative towards finding out the inclination and views of people towards the new era of Equality with the blend of customs and traditions.

Introduction

Sabrimala Sree Dharma Sastha Temple, dedicated to Lord Ayyappa is one of the most famous and prominent among all the sastha temples in Kerala. It is situated about 3000 feets above the sea level on a hilltop named Sabarimala in Pathanamthitta district. The temple gets open for worship only during the days of Mandalapooja, Makaravilakku and Vishu, though the unique aspect of this temple is that it gets open for all the religions. It is said that the pilgrims have to observe celibacy for 41 days before going to Sabarimala.

The temple is managed by the Travancore Devaswom Board while Main stakeholders of Sabarimala Temple are Travancore Devasom Board, Tantri (head priest) family, Pandalam Royal Family, Ayyappa Seva Sangam etc. Lord Ayyappa, at this temple, is worshipped as a 'Naishtika Bramhachari' which led to publication of a notification by the Devaswom Board that manages the temple regulating that women belonging to the menstruating age are not permitted to enter the temple.

[1] Student, Indore Institute of Law

The Indian Young Lawyers Association filed a petition before the three-Judge Bench of High Court of Kerala which further keeping in view the gravity of the issues involved, sought the assistance of Mr. Raju Ramachandran and Mr. K. Ramamoorthy, learned senior counsel as Amici Curiae. Thereafter, the three Judge Bench analyzed the decision and the reasons ascribed by the Kerala High Court in S. Mahendran v. The Secretary, Travancore Devaswom Board, Thiruvananthpuram and others wherein similar contentions were raised. The Bench took note of the two affidavits dated 13.11.2007 and 05.02.2016 and the contrary stands taken therein by the Government of Kerala but further decided the case in favour of the respondents and held that the ban of womens belonging to the menstruating age is not violative of any fundamental rights.

Further a writ petition was preferred by Indian Young Lawyers Associaton under Article 32 of the Constitution seeking issuance of directions against the Government of Kerala, Devaswom Board of Travancore, Chief Thanthri of Sabarimala Temple and the District Magistrate of Pathanamthitta to ensure entry of female devotees between the age group of 10 to 50 years to the Lord Ayyappa Temple at Sabarimala (Kerala) which has been denied to them on the basis of certain custom and usage; to declare Rule 3(b) of the Kerala Hindu Places of Public Worship (Authorisation of Entry) Rules, 1965 (for short, "the 1965 Rules") framed in exercise of the powers conferred by Section 4 of the Kerala Hindu Places of Public Worship (Authorisation of Entry) Act, 1965 (for brevity, "the 1965 Act") as unconstitutional being violative of Articles 14, 15, 25 and 51A(e) of the Constitution of India and further to pass directions for the safety of women pilgrims.

The Hon'ble Supreme court did pass the judgement in the instant petition on 28th September 2018, and with the majority of 4:1 held that the ban on entry is volative of the fundamental rights of the females and hence ordered to remove the ban. The only female Judge of the case Mrs. Indu Malhotra, took a different view from all the other judges and held that the petition is not maintainable since the petitioners have no locus standi.

However, after the removal of the ban, when the temple got opened for the first time and some women tried to enter the temple they were stopped by thousands of the people and violence evolved in the area. They became unsuccessful but then on 3rd January 2019, it was declared by the Chief Minister of the state that two women have successfully entered the temple and have came back to the safe place. But the violence and the controversy is being increased day by day because of the opposition of huge number of devotees of the temple.

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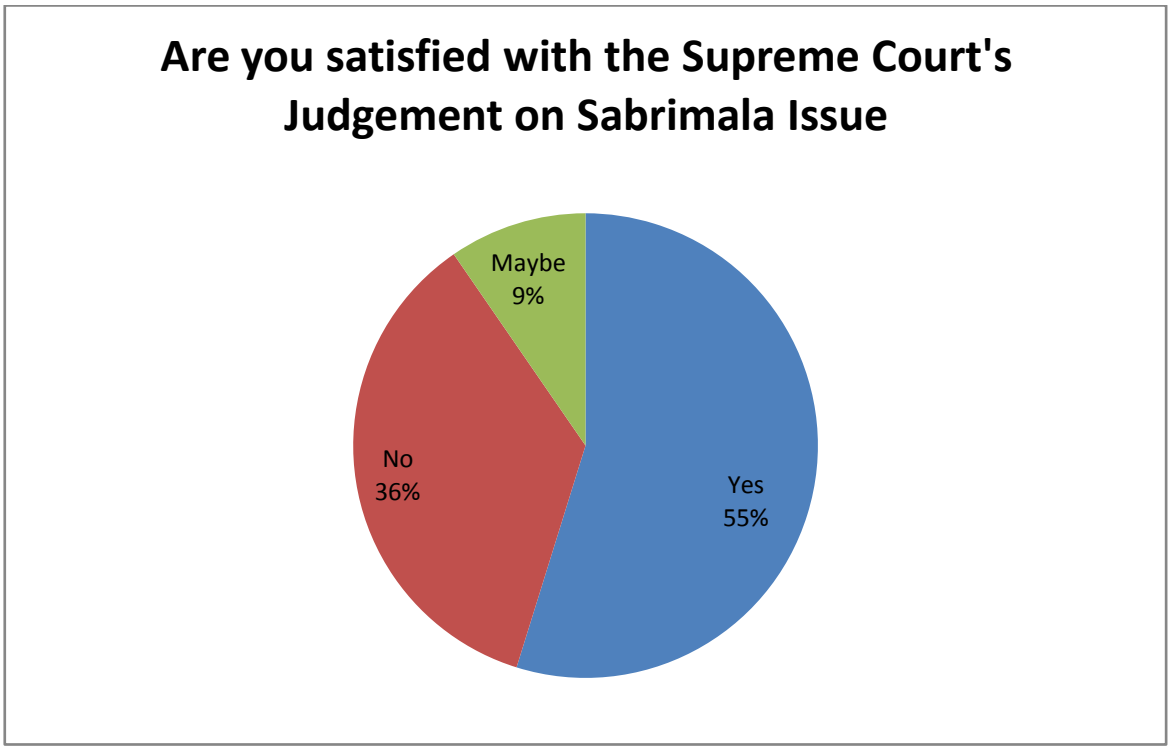
Survey

In order to find out the views, perspective and knowledge of people, a questionnaire was designed and circulated amongst 100+ people in India. Their opinion was as follows:

1. Are you satisfied with the Supreme Court's Judgement on Sabrimala Issue? Y/N/Maybe



As seen above, 54.8% of people are satisfied with the judgement of the Hon'ble Supreme court while 35.6% people are not satisfied with the judgement. Also there are 9.6% of people, who took the survey are not sure of their stand on the judgement.

No difference can be traced on the basis of religion or the age of the person who took the survey. The proportionality of youth and aged one's are in similar ratio towards the answer of this particular question.

The numbers however show that more people are supporting the judgement of the hon'ble supreme court but another thing that gets clear from the survey of this question is that the number of people opposing the judgement are also not less. A major opposition of the judgement can be clearly seen.

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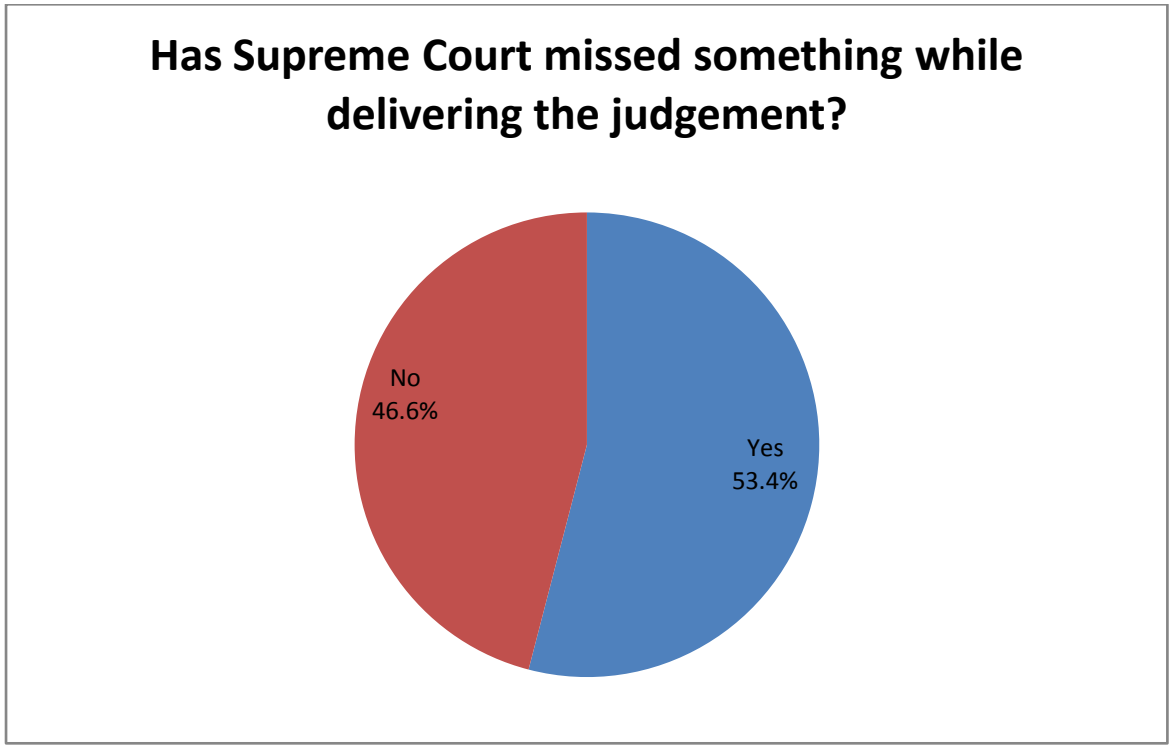
2. Has Supreme Court missed something while delivering the judgement? If yes, What?
    - Yes/No



The above is a graphical representation shows that 46.6% people are of the view that the hon'ble court has not missed anything and the judgement is the best of what it can be.

However, there are 53.4% of the people are of the view that the judgement of the supreme court has missed something.

In the line of this question, it was asked to 53.4% of the people who said yes to mention what has been missed by the Supreme court, in response to which around 7% of people stated that the supreme court must have take the steps to mention the punishments and actions to be taken if anyone opposes the judgement, so that the violence could have been escaped.

The major part i.e. 31% people stated that the religious beliefs must have been taken into consideration and Article 25 and 26 must have been taken above article 14, 19 and 21 of the constitution of India. The customs and traditions of the Hindus must have been respected.

The next 4% of the people are of the view that the Locus Standi of the petitioners must have been seen by the court firstly and the PIL was not maintainable, which only Justice Indu Malhotra tried to recognise while all the other judges missed.

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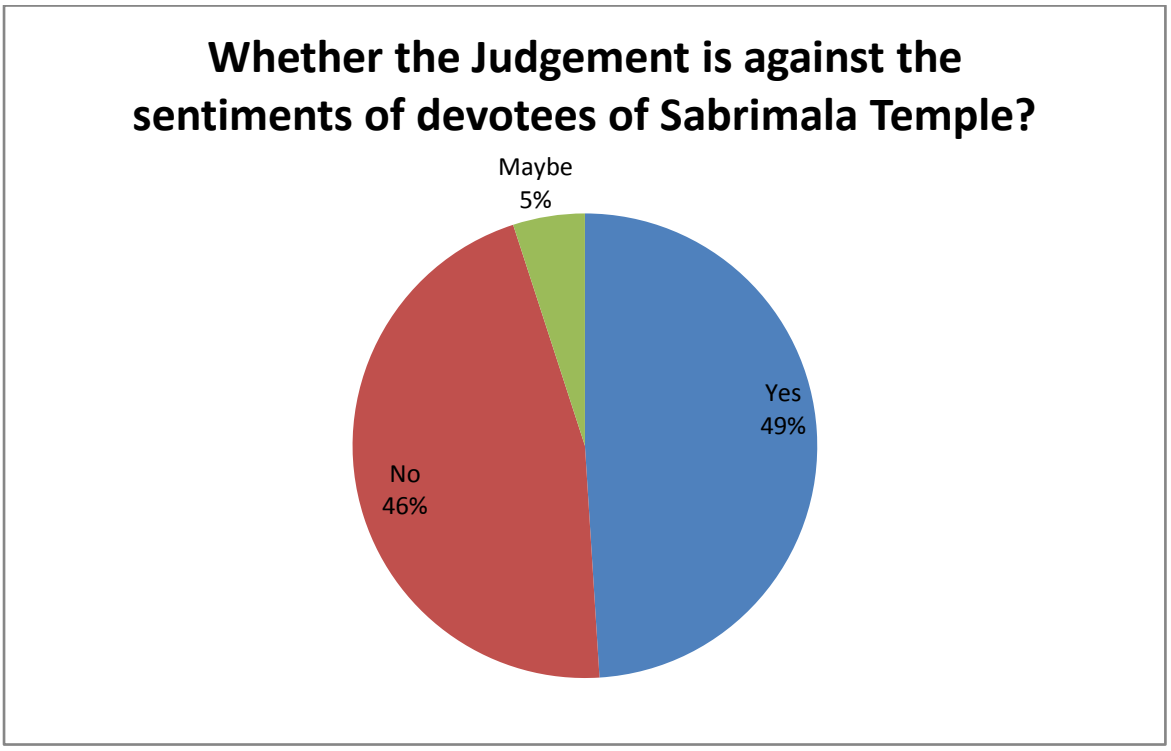
The next 4% people went away with very vague answers while 7% people didn't define the reason of their perspective that the supreme court has missed something.

This question was asked with the intention to actually test the extent of knowledge of the people about the judgement of Supeme court in this issue, where only 4% people were found aware of the fact about the major contention on which Justice Indu Malhotra relied on rejection the plea that the petitioners filed this PIL after reading about this issue from some article and the PIL can only be filed by the person of common interest or the aggrieved party.

However 31% people said that the Religious values must be taken into consideration first, which clearly shows that their knowledge about the Issue is from the upper core, which might be because it was made a political issue of Gender Discrimination.

3. Whether the Judgement is against the sentiments of devotees of Sabrimala Temple? If yes, why?
    - Yes/No



The above is a graphical representation shows that 49% people are of the view that the judgement of the hon'ble court is against the sentiments of the devotees of Lord Ayyappa while 46% people are of the view that the judgement isn't against the sentiments of the devotees while 5% people do not want to comment on the question.

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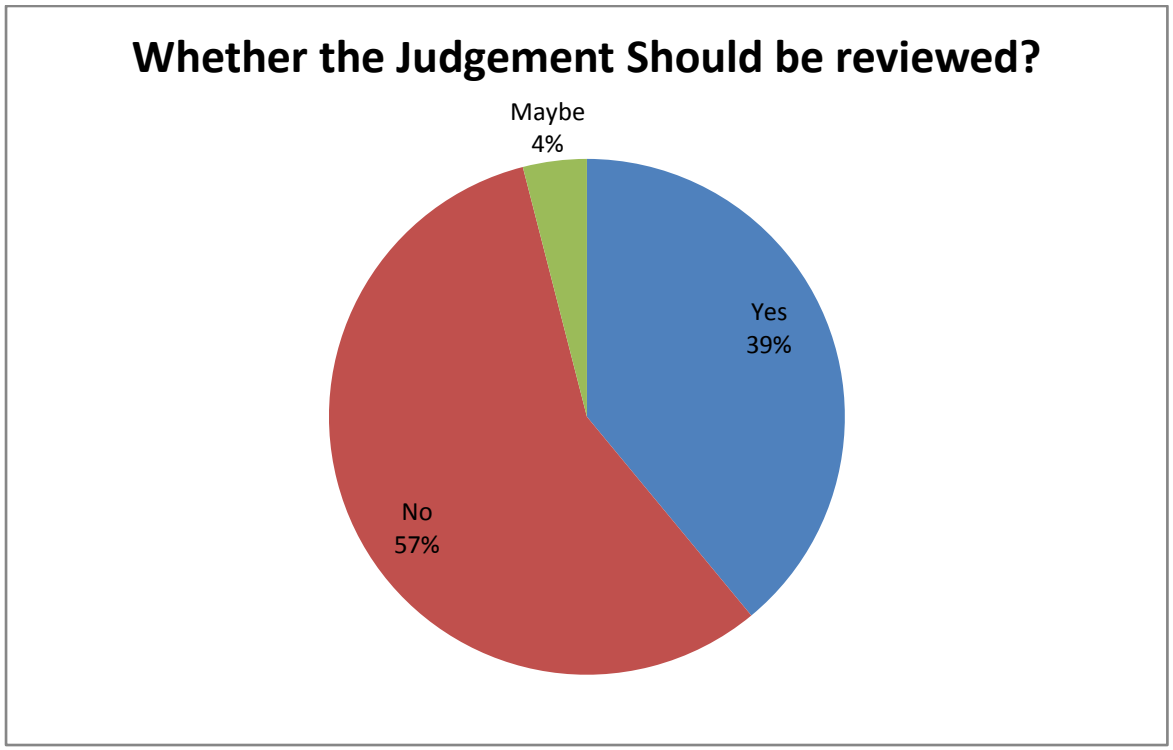
The inclination of 49% people towards the view that the judgement is against the sentiments of the devotees of the temple shows that a huge part of our population is still stuck to the old traditions and customs. Some of the people even provided the reason that the religious matters must not be heard by the Supreme Court and must be left to the people.

While the 46% people inclined more towards the Equality and less to the traditions and customs. Some of them opined that women of menstruating age, who want to enter the temple, are also the devotees of the temple and the judgement is to equating everyone and not against them.

It can be inferred from the data received as the answer of this question that more number of people in India are still inclined towards the traditions and customs and give it more importance than the Gender Equality.

4. Whether the Judgement Should be reviewed? If yes, on what grounds? Yes/No



The above is a graphical representation shows that 57% people doesn't want the Judgement to get reviewed while the other 39% people want the judgement to be reviewed. Also, there are 4% people who haven't commented to the question.

The inclination of 57% of the people is on the basis that the gender equality is must and the women devotees have equal rights to enter the temple.

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While 39% people provided with different grounds on which the judgement should be reviewed, 27% of the people relied solely on the ground that the Supreme Court must not intervene between the religious things and Article 25 and 26 must be given priority than tight to equality.

2% of the people stated that the judgement must be reviewed on the grounds of Locus Standi of the petitioners, the essential practice test and on the fact that it was an age restriction and not the gender discrimination.

Also 7% people did not provide with any grounds and 5% people were very vague and provided with the reasons like it must be reviewed because of the violence by people, sentiments of people creating violence etc. etc.

It can be clearly seen that most of the people, who are in the view that the judgement must be reviewed on the grounds of religious values only and there are only 2% people who have written about the other genuine legal grounds like locus standi, essential practise test, Interpretation of Article 17.

Conclusion

The research shows that there is more number of people who are satisfied with the judgement of Supreme Court but the fact that there are still a huge number of people who are opposing the judgement of the Supreme Court. The study infers that still people are more inclined towards the traditions than Gender Equality. The study also reveals that most of the people are opposing the Judgement on the basis of religious values and there are only few present people who are well aware of the issues of Locus Standi, Essential religious practices, Class Discrimination etc. Thus, it is clear that there are very few people who do have the complete knowledge of the issue, contentions and its Judgement. It is highly essential that all the aspects of every judgement of the Supreme Court that relates with a national issue must reach to the people.

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