



Thakur Educational Trust's (Regd.)

**THAKUR RAMNARAYAN  
COLLEGE OF LAW**

(Approved by Bar Council of India & Affiliated to University of Mumbai)

Thakur Ramnarayan Educational Campus,  
S. V. Road, Dahisar (East), Mumbai - 400 068

Tel.: 022 - 2828 1200 • Fax : 022 - 2828 1300

E-mail : admin@trcl.org.in • Website : www.trcl.org.in



## MOOT PROPOSITION

*Purity or Impurity depends on oneself. No one can purify another.*

- *Buddha.*

- 1) Indiana is a country located in subcontinent of Asia with a glorious and rich heritage and where various religious groups with social, lingual, religious and cultural diversity co-exist. The cultural tradition in Indiana is unique. Indiana is a land of different religions which are characterised by various religious practices and beliefs. The spiritual land of Indiana has given birth to many religions such as Hinduism, Sikhism, Jainism and Buddhism. The social, legal and cultural conditions of Indiana are Pari Materia to that of India. It also recognizes all the fundamental rights guaranteed by the constitution of India.
- 2) The Somnimala Temple, located in the Periyar Tiger Reserve in the Western Ghats mountain ranges on the hill top at an altitude of 480 m (1574 ft.) above sea level is surrounded by mountains and dense forests which is in the District of Kairana. The Somnimala temple is renowned for lakhs of pilgrims thronging it all through the year. The temple is dedicated to the Hindu celibate deity 'Q', who according to belief is the son of Shiva and Mohini, the feminine incarnation of Vishnu. Pilgrims trek from different city states to reach the shrine, which has 18 sacred steps, to worship the deity after undergoing strict religious vows for 48 days.
- 3) Anushka is a Third year B.M.M student studying in the X.Y.Z University of Mumbia and for her final year college assessments, she decides to cover the glorious 10-day long festival which is the 'Aarattu utsavam' and also the construction of a new gold-plated door or the 'sanctum sanctorum' when the hill shrine opens for the festival. The temple's beauty and rituals are spoken of highly & it is regarded as one of the strictest temples when it comes to abstinence & fasting. It is a male only temple and women between the ages of 10 to 50 years, that is those who are in menstruating age, are barred from entering the temple. However, the women between 10 to 50 years are not prohibited to worship lord 'Q' in any other temple, their entry is prohibited only in the

temple of Somnimala. 1<sup>st</sup> August 2018 was the first day of festival. Anushka along with her team mates from her batch decided to enter the temple to capture the event but failed to reach the '*sanctum sanctorum*'. Anushka was highly intrigued by the way rituals are followed in that temple and was curious to know more about it, she and her batchmates managed to get through the main entrance. Immediately thereafter they were noticed by one of the '*Poojaris*' of the temple and were immediately sent out by the back gate with the help of the police and the temple was shut for purification. This was a very humiliating incident faced by Anushka and her friends.

- 4) The exclusion of (a class of) women from the Temple is justified on the basis of ancient custom, which was sanctioned by rule 3(b) framed by the Government under the authority of a certain Act namely "The MCQ Places of Worship" (Authorization of Entry Act). Section 3 of the Act required that places of public worship be open to all sections and classes of people, subject to special rules for religious denominations. Rule 3(b), however, provided for the exclusion of "women at such time during which they are not by the custom and usage allowed to enter a place of public worship." However, the board which maintains the temple has also expressed that the ban was in accordance with centuries- old tradition. Lord 'Q', being a Naishtika Brahmchhari. Further argument put forth by the temple authorities is that it is not possible for women to put up with the physical hardship and days of celibacy like men.
- 5) Anushka and her batchmates along with a social group which mainly targets to uphold the rights of the women namely 'Stree Vikas Sangatna' filed a PIL before the Supreme Court of India. The court held that "We have no hesitation in saying that such an exclusionary practice violates the right of women to visit and enter a temple to freely practice Hindu religion and to exhibit her devotion towards Lord 'Q' The denial of this right to women significantly denudes them of their right to worship". More than 50 review petitions were filed against the decision of the Supreme Court stating that such a judgement fails to respect the old traditions and customs which have been followed since centuries and that allowing women into the temple would directly question the validity of the old tradition and faith which lies in those traditions.

A religious group has filed a review petition on behalf of others having similar interest before the Supreme Court of India and the petition is now before a constitutional bench of 7 judges.

### **Issues:**

1. Whether the present review petition is maintainable or not?
2. Whether Rule 3 of the “The MCQ Places of Worship” (Authorization of Entry Act (Authorisation of Entry) permits a ‘religious denomination’ to ban the entry of women between the ages of 10 and 50 years. Does this practice violate Articles 14 and 15(3) of the Constitution by restricting entry on the grounds of sex?
3. Whether the practice constitutes an ‘essential religious practice’ under Article 25? Whether a religious institution can assert its claim to do so under the right to manage its own affairs in the matters of religion?
4. Whether the exclusionary practice based on a biological factor exclusive to the female gender amounts to ‘discrimination’? Whether this practice violates the core of Articles 14, 15 and 17?
5. Whether the Somnimala Temple has a denominational character?

**Notes:**

1. The Laws, case laws and Constitutional provisions of India are analogous to the ones in India in the year 2019.
2. Petitions to be drafted on behalf of both the petitioner and the Respondent, and oral arguments to be limited and based on the above information.
3. Both the parties have to frame and prepare all the five issues from both the sides and will address only those, which are asked to be addressed by the court. Further, it is the court’s discretion if it wants any party to address any other issue out of the five issues. (This rule is applicable only for the preliminary and the quarterfinal rounds)
4. If the verdict of the original case is announced before the competition dates the said judgement should not be taken into consideration in the course of arguments.
5. All the doubts have to be cleared before 15<sup>th</sup> January 2020.