



HINDSIGHT OF JUSTICE: AN ANALYSIS ON AYODHYA DISPUTE AND EQUITY ON CIVIL LIBERTIES.

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ABSTRACT

A religion provides a set of belief which further provide a purpose in life. In today's industrial era there is an emergence in the concept of secularism. Secularism is a concept where an entity is religion neutral. In our Indian constitution religious freedom is a fundamental right, every person has their own right to profess any religion they like.

India is a place of religious diversity. The word secular can be found in the preamble which was introduced in 42nd amendment furthermore secularism is reflected in article 25 to 26 and 29 to 30 which means our Indian constitution acknowledges secularism. However, the term secularism is not expressly found in constitution.

It is broadly known that India is recognised as a secular state, but however it strictly does not follow the separation between religion and state, deciding to obtrude in the realm of religion by treating religions equally. The best example is Ayodhya dispute which was filed almost 134 years ago. The primary dispute was for the land in which the Muslims demanded for the construction of Babri masjid while the Hindus demanded for the construction of Ram Mandir which dates back to 1853.

This paper examines how equity of religion is applied in the case of Ayodhya dispute. The paper also contains a brief history about the origin of the Ayodhya dispute. Further it discusses the brief facts and judgement pronounced by the honourable Supreme Court. It also deals with the concept of secularism and how it relates to Ayodhya dispute. This paper provide suggestion about what amendment could have been done so that there could be enhancement in the current situation of the Ayodhya dispute.

Keywords: Secularism, Ayodhya dispute, Equity, Religion

INTRODUCTION

The Ayodhya dispute is one of the longest cases which created an unforgettable history. This case lasted over for almost 134 years and it all started with 1500 square yard plot of land which is located in Faziabad in the state of Uttar Pradesh in north India. It brought the emergence of freedom religion in the Indian law. It has become such a controversial and contumelious issue that drew the attention of many religious groups including various political parties and numerous community groups. Not only people, even the Gods battled over the disputed land to claim their rightful ownership. The numerous divided in to just groups Hindus and Muslims and this almost took the phase of a battle, where Hindus claimed that the disputed land in Ayodhya being the birth place of lord ram and on the other side Muslims claimed that the masjid was built by the Mughal emperor Babur in the late 1500s and named it Babri masjid.

Now if go in the history the disputed land is considered as the birth place of the lord Rama. The Hindu community demanded the construction of ram mandir as it is denoted as the birth place of lord Rama they also contested that the exact location of lord ram's birth place is where the Babri masjid was constructed by the Mughals in the late 1500's although some Muslim community opposed as it was not clarified and no evidence was found regarding the birth of lord ram .The things changed when the Mughals came during the 13th century because of which the Islamic dynasty expanded. The main dispute arose between the Hindus and Muslims , the first and the foremost reason was that the Hindus claimed that the place belonged to lord ram and they opposed that no Masjid should be constructed whereas Muslims said that Masjid should be there and no one has the right to stop them from performing there rights and rituals.

Secularism means right to practice any religion, rights and rituals. It protects the rights and freedom to perform religious and other beliefs as well as does not impinge on the rights and freedom of others. From the 42nd amendment of the constitution, India was declared as the secular nation. Secularism maintains the balance between the freedom of religion and right to be free from religion. Every person who believes in religion have freedom to express their ideas completely also those who oppose the idea of religion also have freedom to express their opinion freely. All kind of ideas and beliefs must be open in a democratic country. India being the most secular and diverse country of the world, faced lot of regional disputes and the longest disputes which continued for 100 more years or which lasted for 3 decades was the Ayodhya dispute. Secularism means freedom to practice any form of religion. The Ayodhya dispute or the Babri Masjid dispute created a lot of differences between the Hindus and the Muslims which also affected the peace of the country. The verdict of the court was in favor of the construction of the Ram temple as the Muslim community failed to prove that particular place was the birth place of lord Ram and there was no temple before the construction of the Masjid. Certain artifacts were found in the year 1992, which was basically statue of deities which belonged to that era before Masjid was constructed, the archeologist where called from outside the country to discover of which year or time those artifacts existed and was it before the construction of the Babri Masjid. From the archeological examination it was found out that those artifacts existed before the construction of Babri Masjid. The judgment was fair enough to order that the temple

should be constructed and the Muslim are given certain acre of land for the construction of Masjid, which ensures that no one is hampering there right to practice and follow their religion.

THE CHRONOLOGICAL HISTORY OF AYODHYA DISPUTE.

The dispute for the land continued for a long period of time and it took almost 134 years to get resolved. Certain important event took place during these three decades and it created an unforgettable event which also included numerous riots between Hindu and Muslim community. The issue began with the argument that it was the birth place of lord Rama and there should be no construction of masjid and the land belonged to the Hindus. On this basis of the argument the Hindu kar Sevak's demolished the Babri mosque on December 6, 1992, in Ayodhya.

Now if we put emphasis on the important dates, here they are -

1524: in this year the Mughal emperor Babur invaded India on the invitation given by Daulat Khan Lodi and through him he became the first Mughal emperor of India and gave birth to Mughal dynasty.

1528: according to the sources the construction of Babri mosque is not defined and it is estimated from the inscriptions made in the premises of Babri masjid which states that the Mughal Commander Mir Baqi built the mosque in 935 AH (1528-29).

1853: during this year the first communal violence occurred over the Ayodhya issue under the rule of Nawab Wajid Ali Shah of Awadh. For the first time the Hindu community members asserted that the mosque was built after the demolition of the Hindu temple.

1859: by this time, it led to more communal violence. Both the groups the Hindus and Muslims started praying at the site. To minimize the communal violence the Britishers built a fence which divided the compound in two parts. The inner court was used by the Muslims and the outer court was used by the Hindus.

1885: Mahant Raghu Bir Das filed a petition in Faizabad district court for the first time pleaded to build a canopy of ram chabootra on the site of lord ram's birth place which however the plea got rejected by the court. This was for the first time when the judiciary was involved in the following case.

1949: The Hindu activist for the first time placed the idol of lord Rama inside the temple which led to major controversy. There was a protest done by the Muslims against this act. Both the communities filed a civil suit against each other. After the massive protest the government declared the area as disputed.

1950: The Hindus demanded for the right to worship in the premises however the court held back the decision and allowed for the worship in the disputed land.

1959: Nirmohi Akhara came into frame and asked for the possession of lord Rama temple. Whereas in 1962 the Sunni Waqf Board asked for the possession of the Mosque.

1986: During this year it was instructed by the district court to open the gates of the temple for 'darshan', which was later protested by the Muslim to form Babri masjid action committee. Ultimately the gates which were opened had to get closed within one hour.

1989: Afterwards Deoki Nandan Agarwal who was the vice president of VHP (Vishwa Hindu Parishad) filed a suit in the Allahabad high court for the possession of the land and on the same year the dispute got discussed in the Lucknow bench of Allahabad high court. Later in 1990 some of the activist of VHP tried to partially damage the mosque.

1992: During this year the riots started and several committees were forming up. On December 6 more than 2000 lives were lost. After few days a liberhan commission was setup to investigate the demolition of disputed structure.

1993: An act was passed by the acquisition of land by centre in the disputed area 'Acquisition of Certain Area at Ayodhya act'. Various writ petitions were filed and one of them was represented by Ismail Faruqi challenging various aspect of the act. In 1994 the Supreme Court said that in the case of Ismail Faruqi that the mosque is not an integral part of Islam.

2002: The Archaeological Survey of India (ASI) were instructed by the Allahabad high court to find out where there are any traces of a Hindu temple beneath the mosque structure. In the same year the court also started tracing out the real owner of the disputed land.

2003: The Archaeological Survey of India (AIS) found evidence related to the temple existence beneath the mosque. The artefacts and sculptures belonged to that era and it was clearly stated that it existed before the construction of the mosque. The report of AIS was challenged by the all India Muslim personal law board.

2009: A report was submitted by Liberhan Commission, in which the Chief Minister of Uttar Pradesh Mr. Kalyan Singh was harshly criticised because of his act, of appointing those police officers and bureaucrats who would have remained silence during the demolition of mosque in Ayodhya.

2010: Later, the order was reserved by the Lucknow bench of Allahabad high court, suggesting the parties to resolve the issues through discussion but least interest was shown. Later the High Court gave a historic judgement regarding the Ayodhya case and it divided the disputed land into three divisions – Ram Lalla. The second went to Islamic Waqf Board and the third to Nirmohi Akhara. However, neither the Hindu Mahasabha nor the Sunni Waqf Board were satisfied with the decisions of the Allahabad High Court and therefore they decided to challenge it before the Supreme Court.

2011: Allahabad High Court judgement was backed by the Supreme Court and said, to keep the things the way they presently are.

2015: After this judgement the Communal tension increased because some of the supporters of VHP who protested by throwing stones to stop the construction of ram mandir and to reduce this the action was taken by the chief minister of up Akhilesh Yadav who took the necessary steps to decrease it.

2017: as the case became so controversial the Supreme Court stated that the Babri masjid case now is a sensitive issue and appealed to all the stakeholders to find a suitable solution for the case. It constituted a three-judge bench hearing the pleas which also challenged the 2010 verdict of Allahabad high court. The final hearings of the Ayodhya case started before the chief justice of India (now retired) Mr Dipak Mishra, justices Ashok Bhushan and S. Abdul Nazeer.

2018: The Supreme Court said that the Ayodhya dispute case will be indexed before an appropriate bench in January 2019.

2019: a five-judge constitution bench was setup by the Supreme Court to hear about the land dispute. The bench heard both the sides as well as tried to resolve the matter through third party mediation, but however it failed a several times but after wards final judgement came giving the land to build the temple and also giving another land to Muslims to build the mosque.

RIOT WHICH TOOK PLACE DURING THE AYODHYA DISPUTE.

There was a reason why the Ayodhya dispute was declared as a sensitive issue by the Supreme Court as it gave rise to numerous riots and a tussle between the Hindu and Muslims. This case had a huge journey and also created a lot of communal disputes and gap. This dispute effected the whole country emotionally and because of which the essence of the secularism in the country was decreasing. The land dispute took a turn to be a dispute between the communities and even after the decision has come there are still disparities among the communities. Many lost their lives due to the riots and Mumbai got affected the most.

In the year 1992 when the mosque got demolished by the members of VHP (Vishwa Hindu Parishad), after that Mumbai faced lots of disturbances and on March 12 1993 a bomb blast took place and around 700 people lost their lives which also led to migration of many minority communities. Till today it is continuing but the aftermath of Ayodhya dispute have affected city the most. In that particular city the people are still preferring the Hindutva and lots of them are even boycotting the other communities. The secular aspect in that city eventually have decreased because of the dispute although the judgment has been made maintaining the countries secularism, yet there are disparities alive basically between the two communities.

SUPPORTING THE VERDICT GIVEN BY THE HONABLE SUPREME COURT

BEFORE JUDGEMENT

The decision given by the Apex Court on the Ayodhya dispute would be remembered as one of the most controversial and an important decision in India's history. An end put up, to one of the oldest disputes that has torn the social fabric of the country by a bench headed by chief justice Ranjan Gogoi and with other four senior judges of the Supreme Court. As the Supreme Court has given the approval for the construction of Ram temple at the disputed land and has also permitted to allot 5 acres of land for the construction of mosque to the Muslim community at some other place, in order to maintain communal peace and to render justice to every community equally. The historic decision was welcomed by each and every individual of the country, however a mixed reaction can be seen among the Muslim community. While the decision was made by the Supreme Court on 9th November, 2019 many of the leaders of different political parties were seen appealing to the citizens to maintain law and order and peace among themselves, as it was a sensitive period and it could have led to any kind of tension or riots in the country.

The effect of the judgment can be seen at a large scale, as most of the government colleges and schools were shut down in Uttar Pradesh and in some other states of India. There was also an increase in the security at Ayodhya. Early morning just before the verdict the whole town looked deserted, as resident were avoiding to move outside of their houses. Some have even stored the food in advance, to make sure if any riots breaks out or there was also the probability of curfew being implemented in the town. But when Supreme Court gave its verdict everything went normal, people were seen on streets, welcoming the court's decision. There was no sign of any disputes among the religion and also no riots happened.

HINDU'S GLORY

Hindus were very happy with the decision of one of the top courts of India. They welcomed the verdict and also believed that this verdict respected the interest of both the communities, the Hindus and the Muslims. The Hindus greeted each other, and there was also the chanting of "JAY SHREE RAM" in the streets. It was a kind of relief for the Hindu supporters and the followers that after such a long battle, they can see their Lord Rama finally coming to Ayodhya. Even the Prime Minister of India said that the decision on Ayodhya should serve Indians as a lesson to move forward together, and the Chief Minister of Uttar Pradesh also welcomed the decision of the Supreme Court. The leaders of the opposition parties also praised the Supreme Court for its historic decision.

MIXED REACTION AMONG MUSLIM COMMUNITY

There was a different opinion among the Muslim community. Some Muslims were seen going with the decision of the court. As many Muslims said that their five-generation had suffered a lot due to this dispute, and they were very much pleased with the decision of the Supreme Court. While some believe that there was no option left to

them, despite going with the decision of the Supreme Court. Meanwhile, the All India Muslim Personal Law Board was unsatisfied by the decision of the Supreme Court hence decided to file a writ petition against it.

FINAL JUDGEMENT

The Ayodhya land dispute case was pending before the Supreme Court for over a period of 40 days at a stretch. Finally, the court gave its verdict in favor of the Hindu community by giving the allowance for the construction of Ram Temple. Some of the key points of the decision made by the court are--

- a) The entire disputed land of 2.77 acres was given to the Hindus for the construction of the temple, and it also directed the Centre for allotment of 5 acres of land separately for the Muslim community for the construction of Mosque.
- b) The Supreme Court rejected the plea filed by the Nirmohi Akhara contesting control over the entire disputed land, and instead of that, it ordered the Centre to give some kind of representation to them.
- c) The Supreme Court has also ordered the formation of a trust in 3 months for the construction of mandir because the court has not found any Islamic structure below the disputed land.
- d) The Supreme Court believed that the disputed site was the place where the Hindus used to worship and where Lord Ram was born, while the Muslims also have sentiments towards that place. The Supreme Court also believed that the demolition of the Mosque by the Hindus in 1992 was a violation of the law.
- e) Supreme Court also laid down that the Muslim community has failed to prove why the disputed land should be given to them.

OUR VIEW ON THE JUDGEMENT

The paper focuses on the chronological history and the reasons behind the causation of the dispute, which took decades to get resolved, still there exists a lot of communal disparities. The famous judgment was given under the presence of ex-chief justice of India Mr. Dipak Mishra and we are in support of the judiciary. The judgment supported both the communities and gave the disputed land to the Hindus and the Muslims were given 5 acres of land. The reasons behind supporting the judiciary is that:

1. During 1992 the artefacts which were found did not belong to the era when the masjid was constructed, but it existed before the construction of masjid.
2. The one who protested against the construction of Ram temple was unable to prove the fact that, the particular disputed land was the birthplace of lord ram and according to the history there are proofs that lord ram existed in that place and hence that city is considered to be the birthplace of lord ram.
3. During the dispute, the communal groups were claiming that their fundamental rights are being infringed., the right to perform any religion freely. The judiciary took the fair decision and proper 5 arcs of land were given to the Muslims to build the mosque and perform their religious duties. Hence it was wrong

allegations made by the Muslim community that their right to perform any religion is being infringed or violated.

CONCLUSION

The Ayodhya dispute created turbulence all around the country, and it continued for 134 years, which took several decades to get resolved. Finally, when the judgment came, it became the longest and one of the landmark cases in Indian history. This case was a whole journey starting from a disputed land and finding out who is the real owner of the land to fighting for the ownership of the land, which also gave rise to communal disturbances between the two communities asking for the construction of the temple or mosque. The main highlights of this case were a land of 2.77 acres, which broadly divided into two parts the inner courtyard and the outer courtyard where ram chabootra and Sita rasoī existed in the outer courtyard, and the inner courtyard had masjid till 1992. The Muslims failed to prove their exclusive right and possession over the inner courtyard, whereas the belief of Hindus that they want to worship in the central dome of Babri masjid believing that it was the birthplace of lord ram was proven genuine. The Supreme Court stated that it is beyond the jurisdiction to decide whether their belief is right, but eventually, it was proven genuine. Though the masjid was not built on vacant land but the Muslims did perform their Friday prayers consistently; hence their claims were also proven to be genuine, and they are given 5 acres of land to freely perform their rights and rituals without any disturbance. The judiciary strictly maintained the secular aspect of the country as well as fully supported the sentiments of both the communities. Hence the verdict which the court gave was fair enough, keeping in mind all the differences and sentiments of the people.

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