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GOD AS A LEGAL ENTITY

WHO ARE LEGAL PERSONS?

In law, generally, there are two types of persons - Natural person and Legal person. Natural persons are Human beings that have certain rights and obligations whereas Legal persons also known as Juristic person are a body of persons or an entity considered as having as many rights and responsibilities as natural person and especially the capacity to sue or be sued¹. Natural persons attain their rights and obligations right from their birth, unlike legal persons who attain their status after the declaration from the competent court. In *Som Prakash Rekhi v Union of India and anr.*², the court held that a legal person is an entity other than a human being to which law attributes personality³. According to Salmond⁴, “Legal persons, being arbitrary creations of the law, may be of many kinds as the law pleases”. In India, Animals, Rivers, Corporation, etc. are recognized as legal persons and Court also appoints guardians to protect them since they are unable to raise their voices to safeguard their rights.

IS GOD A LEGAL PERSON?

The answer to the question of whether God is a legal person or not is in negation because it is the Idols who are given the status of juristic person and not God Himself. However, in *Yogendra Nath Naskar v Commissioner Of Income Tax, Calcutta*⁵ it was held by Supreme Court that not every idol is qualified to be a legal person but it is only when the idol is

¹ MERRIAM-WEBSTER <http://www.merriam-webster.com/legal/legal%20person> (last visited 10 December 2023).

² *Som Prakash Rekhi v Union of India and anr.* AIR 1981 SC 212

³ Saji Koduvath, *Legal Personality of Temples, Gurudwaras, Churches and Mosques* SAJI KODUVATH ASSOCIATES, (12 May 2022) <https://indianlawlive.net/2022/03/12/legal-personality-of-temples-gurudwaras-churches-and-mosques/>

⁴ GLANVILLE WILLIAMS, SALMOND ON JURISPRUDENCE 358 (Sweet and Maxwell 1957).

⁵ *Yogendra Nath Naskar v Commissioner Of Income Tax, Calcutta* (1969) 1 SCC 555.

consecrated and installed at a public place, it becomes a juristic person.⁶ In landmark judgement of *Ayodhya dispute case*⁷, the Supreme court further explained that legal status is not provided on divinity as God is omnipresent and He does not have any physical presence and therefore, Idols, who are the physical embodiment of the supreme being is given the status of juristic person.

Similarly, the Supreme Court in *Shriomani Gurudwara Prabandhak Committee, Amritsar v Shri Som Nath Dass and ors.*⁸ held that Guru Granth Sahib is a juristic person. The Court in its judgement mentioned that like a temple without Idol is a mere building, similarly, Guru Granth Sahib is the nucleus and central object of worship in Gurudwara therefore, the Supreme Court declared Guru Granth Sahib as a legal person. In *Somnath Dass Case*⁹ it was declared by the court that Mosque is a juristic person stating that even though it does not contain any idol or any image of worship, it does have a pious nucleus that differentiates it from any ordinary building however, SC in *Ayodhya case*¹⁰ adopting an opposite opinion declared that Mosque is not a jurist person and the same opinion is followed in the case of churches.

RIGHTS OF DEITY

Since legal status is conferred to Deities, they are also given certain rights which include right to own property, right to sue someone. Along with rights, they are also subjected to certain obligations like Duty to pay taxes etc., they can also be sued. The question whether they have fundamental rights too is still under discussion. In the *Sabrimala case*¹¹ Advocate Mr. J. Sai Deepak contended that Lord Ayyappa, the celibate deity had the constitutional right to privacy and therefore, women of age 10-50 should not be allowed to enter into the temple in order to safeguard the celibacy of the Deity however, Nariman J. and Chandrachud J. (two of the judges in the five judge bench) in their separate judgement highlighted the inconsistencies

⁶ *Rights of Deity*, LEGAL SERVICE AID (11 December, 2023, 11:40 AM) <https://www.legalserviceindia.com/legal/article-1199-rights-of-a-deity.html#:~:text=No%20fundamental%20or%20constitutional%20rights&text=However%2C%20the%20Court%20ruled%20the,any%20fundamental%20or%20constitutional%20right.&text=To%20conclude%2C%20it%20can%20be,'Legal%20%2F%20Juristic%20Person'>.

⁷ M. Siddiq (D)Thr Lrs v Mahant Suresh Das and ors. (2020)1 SCC 1

⁸ Shriomani Gurudwara Prabandhak Committee, Amritsar v Shri Som Nath Dass and ors. (1984) 2 SCC 600

⁹ *Id*

¹⁰ M.Siddiq, *supra* note 7.

¹¹ Indian young lawyer Association and ors v State of Kerala and ors (2019) 11 SCC 1

and errors of the court in holding that deities or Hindu idols can exercise any fundamental or constitutional rights under the Indian Constitution¹². However, the court failed to explicitly recognize the fundamental rights available to idols and therefore, this question is still open for future courts to discuss¹³.

CONCLUSION

Since the British period emphasis has been given to declaring idols and deities as the legal person however, still there is no clear guidelines to ascertain the extent to which the rights of the Idols extend. Whether the rights of the Idols are superior to the Rights of an individual is still unanswered. In *Sabrimala Case*¹⁴ there was clash between the fundamental rights of deity and the menstruating women, for example, the Right to privacy (Article 21), the Right to live with Dignity (Article 21) of the Deity was contested with the Right to equality (Article 14), Right to Religion (Article 25) and Right to Liberty (Article 21) of menstruating women and in the above case only two of the judges of the five-judge bench in their separate judgement expressed their opinion of not giving fundamental rights to the Idols and Deity however, their judgement has no binding value. It becomes extremely necessary that court should decide regarding the status of fundamental rights given to idols otherwise it might become a tool for some to encroach on the fundamental rights of people in the garb of protecting the rights of idols. One of the possible solutions to this problem of clashing of rights of Deity and Devotees is “Balancing”. Anubhav Khamroi has explained that in order to achieve this “Balancing” a neutralizing device must be adopted by all the courts and this device should operate within the parameters of proportionality, reasonableness and have the capacity to neutralize the friction and discord between fundamental rights of the two¹⁵.

¹²Anujay Shrivastava and Yashowardhan Tiwari, *Understanding the misunderstood: Mapping the scope of Deity's Rights in India (2021)*, 10 International Journal of Law and Policy Review, 21-22, (2020) https://papers.ssrn.com/sol3/papers.cfm?abstract_id=3846066

¹³ *Id*

¹⁴ Indian young lawyer Association, *supra* note 11.

¹⁵ Anubhav Khamroi, *Constitutional Silences, Balancing of Rights, and the concept of a Neutralising Device*, INDIAN CONSTITUTION AND PHILOSOPHY (November 9, 2019) <https://indconlawphil.wordpress.com/2019/11/09/guest-post-constitutional-silences-balancing-of-rights-and-the-concept-of-a-neutralising-device/>