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LEGAL STATUS OF IDOL AND MOSQUE IN INDIA

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& Miti Jain*

ABSTRACT

The paper aims to provide information about the legal status of idols and mosque in India. What is legal person/personality? What is legal status of mosque and idols? What rights and duties are implicated after such status? These questions are answered in the paper. The legal status of idols and mosques in India is a complex issue, with various laws and court judgments shaping their status over time. Idols are considered sacred in many religions, including Hinduism, Jainism, and Buddhism, and are worshipped by their followers. Mosques, on the other hand, are places of worship for Muslims

The legal status of idols and mosques in India has been a subject of controversy and conflict over the years, with disputes arising over the ownership, management, and control of religious properties.

In summary these are issues of controversy but the object of this paper is to clarify few facts about the issue and help in coming at a conclusion with help of relevant examples and case laws

Keyword: idols; legal status; mosque; controversy

INTRODUCTION

- Kinds of person.

Starting from the basic meaning of person, the word person is derived from Latin word persona which means mask as in 16th century people wore mask to cover their face but then eventually person could be defined in a proper manner, it was defined as something being a subject or bearer of right.

‘Legal person’ can be real or imaginary and also includes those things which are treated in the same way as human beings for the legal purposes. Natural person and legal person aren’t the same thing. A natural person means a living being or a human being but legal person means beings or things which are treated as persons by law. In ancient time, in some societies, the persons who were not considered as persons in the eyes of law, were killed and it wasn’t treated as homicide. And now if we talk about Hindu law, persons having certain physical disabilities like impotent persons, blind and deaf: dumb and those who have lost sense or limb were considered as disqualified for inheriting property.

- Legal personality

In the words of Zitelmann “personality is the legal capacity of will”. In law, a legal personality means a right and duty bearing unit, in other words any person or thing that can do things which a human person can usually do. Legal personality starts with birth and ends with death. Law attributes legal personality to unborn personality as well. In simple words, a child who is not even born or a child in mother’s womb is considered in existence and inherits property.

- Status & capacity

Personality should be distinguished from status and capacity The term "status" has several different connotations. According to Salmond, the term has four main definitions:

1. A legal situation of any type, whether private or business-related.
2. Individual legal situations, excluding business partnerships.
3. Individual capabilities and limitations in comparison to other components of status.
4. Required rather than the standard legal stance.

The term "capacity" refers to a person's inherent rights and powers in a certain situation. A human is capable of many things. If someone has the position of judge, they simultaneously

hold the one of citizen. Yet, having two capacities does not imply having two personalities. He only has one legal personality.

- Idols

Let's understand what idol means, idol basically means a cult object, it is a handmade image or representation of a god used as an object of worship for the deity person. It represents a likeness of something. It has different meaning in different culture as in Hinduism idol is called MURTI, a point of focus or meditation.

- Mosques

What is a mosque? Mosque is Muslim place of worship; it is also called masjid. The Arabic word for mosques 'masjid' means "place of prostration". Understanding the meaning is not that easy. It is not only a religious place but has archaeological significance. Also its legal technical perspective revolves around the architectural attributes and historical values. As a result, mosques are classified as either religious structures or Islamic monuments or as autonomous legal entities. This viewpoint, which has its roots in the writings of Orientalist scholars of Islamic art and history from the 19th century, continues to shape discussions about the preservation of Islamic monuments and the legal-constitutional debate surrounding Islamic places of worship in postcolonial South Asia. The next question is how is mosque created? Any act of worship follows the Islamic rules of prayer can be said to create a mosque, whether or not it takes in specific building. It is not only used for gathering prayers but also for studying, celebrating festivals like Ramadan. It can also be used as house schools and community centres.

- Who is a deity and his rights

Deity or god is a supernatural being considered sacred or divine. It may be defined as character with powers greater than those of ordinary human beings.

Rights

First of all, how did the practice of treating deities as person start? It was started in British era, and the reason behind it was that temples owned huge land and resources so in order to take control of them British administrators held that The god was the rightful owner of the money, and a shebait or manager served as trustee. Then later in 1887, it was again held that deity has rights, it was held by

Bombay high court in the Dakor Temple case.

This was then finally in the year 1921 in *Vidya Varuthi Thirtha vs Balusami Ayyar* case which will be discussed in detail later

Now what all rights the deities have? The following rights are given to the deity:

1. Owning property – As the wealth of temples gained a lot in the past years so in order to prohibit misuse of the property and manipulation of the wealth, the ownership rights were vested with the deity itself. In *Sri Adi Visheshwara of Kashi Vishwanath Temple, Varanasi, v. State of UP* [1997 (4) SCC 606], the Supreme Court decided that endowment properties belong to the Deity. Lord Sri Vishwanath and it cannot be said that only priests have the right to manage the temple, they just do it on the behalf of deity Management of the temple by mahant/pandas/archakas did not imply that it became their property.
2. Paying taxes – this concept of paying taxes, predominantly, came into existence after Independence. The Supreme court in the year 1969 held that if deities have the status of a person, then they have to pay income and other taxes.
3. To sue – now if the deity or god have rights of a person, so they can fight a legal battle. They can be the plaintiffs or can appeal in the courts. Here are few examples to support the same. This decision was made in the well-known Ayodhya Ram Temple Case, in which Lord Ram is alleged to have sued for ownership rights via his trustee. The instance of the Pathur Nataraja statue is another such. In this instance, the statue had been taken from a Tamil Nadu temple and sold to the Bumper Development Corporation for money abroad. When Scotland Yard confiscated it in 1991, the business had shipped it to the British Museum for conservation. Lord Shiva was included as one of the plaintiffs in the Indian government's lawsuit seeking the return of the idol. To be Sued – if the deity can sue, it is then even entitled to be sued against.

To conclude, a deity is considered so only after its public consecration. Such divinity (deities) have the right to own property, are subject to taxation, are capable of engaging in civil litigation, and may be sued. They lack any fundamental rights, nevertheless.

LEGAL STATUS OF MOSQUE AND IDOLS

This topic of Legal status of mosque and idols is open to interpretations. There are several cases supporting the same. Legal status of idol is that it is for sure a jurist person. It is considered as a nature being in the eye of law and has rights also. But the legal status of mosque is not yet certain because there are several cases in which it is held that mosque is a juristic person but there are cases denying the same. So at the end it is open to interpretations and depends on the facts of the case.

In order to understand the concept of legal status of idols there are few observations from different cases. Few of them will be discussed below

The judicial committee in **Pramatha Nath v. Pradyumna Kumar** case held that idols or a deity to be juristic entities, which can own property or can sue or be sued in a court of law. Bhagwan Ram Virajman was named as a primary plaintiff in the Ayodhya dispute in a 1989 lawsuit brought by Deoki Nandan Agarwal before the Allahabad High Court. He identified himself as the companion of "Ram Virajman" who would represent the god in public. Remember that on December 23, 1949, a Ram idol was installed inside the Bari Mosque, which the Hindus see as a heavenly revelation. In 2010, the Allahabad High Court issued a decision that gave Ram Virajman a 1/3 share of the land. The SC later stayed the verdict in 2011. Yet according to the majority in the Allahabad High Court ruling, once an idol is sanctified, it gains ownership rights to any things that belong to it. Lord Shaw decided that a Hindu idol is, in accordance with long-established authority, built upon Hindu religious norms, and recognised as such by courts of law, a juristic entity. It has legal standing and the ability to bring and receive lawsuits. The first time the court acknowledged the legal status of idols was in a 1925 Privy Council case.

Furthermore, in 1969 SC in case of Yogendra Nath Naskar v. CIT upheld the ownership right of idols or deities by putting them into taxation ambit.

In the Sabarimala case of 2018, Judge DY Chandrachud made it clear that while gods or idols have legal rights, they do not possess basic rights.

The extent and ambit of rights of Ram Lalla will be a key-determining question in the land title dispute of Ayodhya.

Shahid Ganj Mosque

Ismail Faruqi and the Allahabad High Court cited the issue of a mosque losing its religious validity owing to hostile control or being out of use for a significant amount of time to argue that a mosque is not necessary for the practise of Islam.

The court in Faruqi cited Masjid Shahid Ganj v. Shiromani Gurdwara Prabandhak Committee, Amritsar, a 1940 Privy Council decision where "it was found that once a mosque has been negatively acquired by non-Muslims, it lost its hallowed nature as mosque. Hence, it was not Mahomedan Law of India as sanctioned by Indian Courts to hold that once a mosque was dedicated, it remained always a place of worship as a mosque.

It is strangely ironic that the Masjid Shahid Ganj controversy resembled the Babri controversy in reverse; in the Shahid Ganj case, Muslim lawmakers argued that the gurudwara stood on a location that, for once, was a mosque. The Privy Council ruled in favour of the Gurudwara, concluding that Shahid Ganj Mosque lost its status as a result of the Sikhs' adverse occupancy.

Ismail Faruqi Case

The SC in Ismail Faruqi case concluded that religious sites that would qualify as being locations of "special significance" and, as a result, be ineligible for State purchase, are those whose acquisition would result in the loss of the freedom to worship. The majority judgment in Allahabad HC used the "particular significance" test to rule that the site being the birthplace of Ram is not only immune from acquisition but enquiry can't be made on the ownership title of Ram Idol.

To determine the necessity of a "house of worship," the "Particular Significance," originally used in Ismail Faruqi and reaffirmed in Allahabad HC, uses this criteria. In accordance with the Essential Religious Practice (ERP) Doctrine, inquiries may be made about I places of worship, such as in the Ayodhya Title case, or (ii) customs, traditions, and rituals that were challenged in recent cases, such as Triple Talaq, Sabarimala Temple, and Dawoodi Bohra female circumcision.

Due to the dispute site being the location of Ram's birth, the Specific Significance Test may tip the scales in favour of Hindu claimants. In a multireligious society with a wide range of traditions and subjects, it is important to investigate if the test can be impartial. Also, is it not

at odds with "essential and integral test" for scrutinising customs and rituals where the court looks at both integrity and essentiality of practice.

CONCLUSION

At the end it can be concluded that, personality in law or legal status is a wider concept. The legal status of idols and mosques in India is a complex and contentious issue that has been the subject of ongoing legal battles and social conflicts. The legal personality is a concept wherein a person is granted legal status by law which means that personality has a distinct identity and has rights like owning property, suing and being sued. such identity is created for the purpose of law. For instance, an idol is giving the said status by law. Moreover, describing the distinctions between the Guru Grant Sahib and other holy texts like the Geeta, the Quran, etc. The Guru Granth Sahib is more than just a book; it is revered as the Guru. Guru Govind Singh declared, "I am the final Guru," and it was his intention that Sikhs consider the Guru Granth Sahib as their exclusive and exclusive guru and revere it. In terms of religion, Guru Granth Sahib is a Guru. As a result, Corpus personified it, creating what the law regards as a legal person; yet, this personification is not seen in any other literature. Just the words of God are contained in the Geeta, Quran, etc.; yet, they do not constitute God in and of themselves. The main concern is that people of India are so emotionally connected with idols and mosque that they cannot digest changed being made or are to be made. This worsens the situation even more.

Even after so many judicial development in this regard, these remain complex and sensitive issues that require continued attention and sensitivity in order to ensure peaceful coexistence and the protection of the rights of all communities. Babri masjid case portrays the sensitivity of the issue even after the final judgement of the apex court of India tensions between the religions prevail till now. It is difficult to conclude on a firm point but the facts that can lead to conclusion are mentioned above in the paper.

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- 4) Ayodhya Ram Temple Case
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