

**MOOT PROBLEM - 2**

State of Aryavartan is a famous country with multi-cultural and multi-linguistic society with population of varied faiths, beliefs and religions, and the people are civilised to live together in peace and harmony. The glory of Aryavartan, spiritually and socially, is praised throughout the world and considered to be a role model for religious tolerance and secular society.

“Viswasreshta” is one of the provinces of Aryavartan, known for its exuberance of nature, temples, churches and mosques, and comprises of faiths like Hinduism, Christianity and Islam. There is a historically renowned temple of ‘Goddess Viswambhari’ in ‘Pavitrasthan’ situated on the top of a hill surrounded by marvellous lush green vegetation, forestry and accessible only by foot-route. The temple of Goddess Viswambhari is open to the female devotees only for specified period during a year generally from August to October. It is accessible only to women devotees, children below 5 years and male persons of 70 years and above are allowed to visit the temple and other male members are not allowed. People from other faiths are not prevented if they conform to the above principles and procedures of Devasthanam. In fact, every devotee breaks a coconut before a small shrine of a Muslim Woman devotee who served the deity Viswambhari, during her life time, situated near the main Viswambhari temple.

The customs and traditions of Viswambhari Temple are strictly observed and the Viswambhari Temple Management Board meticulously follow Hindu religious customs ensuring the piety of the deity. Devotees are required to follow strict discipline and procedure prescribed by the Devasthanam Board. Millions of people from all parts of Aryavartan and outside visit Viswambhari Temple during the sacred period and feel blessed, particularly with darshan on “Mahapoornahuti”. The custom has been in vogue for hundreds of years.

In spite of the best management of temple affairs, the Trust Board faced a piquant situation where in some so-called public spirited activists i.e. ‘God for All’ Society started demanding to permit male persons, in the age group of 6-69 years, into the temple with a plea that they are unjustly deprived of Goddess Viswambhari’s darshan, and argued that this discrimination against the male folk is violative of constitutional rights. They filed a Writ Petition before the High Court of Viswasreshta questioning the validity and constitutionality of the rules adopted

by them discriminating men from women by the Temple Management. The High Court of Viswasreshta ruled that the prevention of male persons of 6-69 from having darshan of Goddess Viswambhari is repugnant to the constitutional philosophy and tantamount to discrimination basing on the sex and age. It further allowed male members irrespective of age to have darshan of the Goddess.

The decision of the High Court of Viswasreshta created commotion and public unrest. When many male devotees, in the age group of 6-69, tried to enter the Goddess Viswambhari Temple with the support of the decision of the High Court of Viswasreshta, they were restrained by other traditional and orthodox Viswambhari devotees and were persuaded, forced, intimidated and made to return, since their entry would spoil the sanctity of the customs and traditions of Viswambhari temple. It created more chaotic social and law and order conditions, and resulted in lathi charge by the police and most of them suffered injuries. The state government ordered for probe into the incident and identified about 4,000 people involved in it and cases were filed against them.

Subsequently, Devasthan Board in consultation with the State of Viswasreshta decided to settle the matter peacefully by filing an Appeal before the Apex Court of Aryavartan, and accordingly an Appeal was filed by the Temple Management. The State Authorities of Viswashreshta stated before the Apex Court that they would earnestly try to honour the decision of the High Court of Viswasreshta on the issue, till further orders in the Appeal.

The local people along with help of some fractions of political parties came under one umbrella and registered a regional party in the name 'Janahita party' with a slogan "Temple protection and safeguarding the Hindu religion" to fight against the decision of the High Court.

Meanwhile the State Government was dissolved and elections schedule was released. The members of 'Janahita party' filed nominations for assembly constituencies of the state and started aggressive campaigning and using the slogan "Temple protection and safeguarding the Hindu religion" the electorates gave a massive mandate in favour of the 'Janahita party' to realize their religious sentiments.

The 'Janahita party' formulated the government, and about to take oath of office. The 'God for All' society filed a Writ petition before High Court Viswasreshta to stay the oath taking ceremony as to invalidate the election of the candidates of 'Janahita party' with a plea that they got elected by using religious slogans, they also argued that using the 'religious slogans' is against the Constitution and provisions of The Representation of People Act, 1960. The High Court of Viswasreshta dismissed the petition filed by 'God for All' society. Aggrieved by this, the Society filed SLP before the Apex court of Aryavartan to declare the elections as Null and Void.

The Apex court of Aryavartan clubbed both the Appeals and initiated the proceedings.

**For the purpose of this moot problem –**

1. The Constitution of Aryavartan adopts the Constitution of India verbatim and all the provisions of the Constitution of India are incorporated as the provisions of Aryavartan Constitution.
2. The powers and the jurisdiction of the Apex Court of Aryavartan are the same as the powers and the jurisdiction of the Supreme Court of India.
3. The provisions of The Aryavartan Representation of People Act, 1960 are same as that of The Representation of People Act, 1950 passed in India.
4. The rest of the laws of Aryavartan, including Penal and Procedural laws are in *parimateria* with the laws of the Republic of India.

**Disclaimer:**

The facts stated in the present case are fictitious and have been drafted solely for the purpose of the competition. The facts, names, locations and dates bear no resemblance to any person, event or happening whether dead or alive. Any resemblance, if any found is purely coincidental. This problem does not intend to hurt the feelings of any section of society or to offend any person.