

## BALANCING SECULARISM ON POLICIAL MANDATE WITH SPECIAL REFERENCE TO PILGRIMS PRIVILEGES IN INDIA

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### **ABSTRACT**

**“Secularism in India is not just point of view it’s a question of survival“**

**Salman Rushdie**

*Pilgrimage is a devotional act whereby people in different continents, states, regions or in different sides would have aspire to visit the sacred place of worship for the sake of religious<sup>1</sup> attainment in their holy life. The State has an obligation to provide facility towards pilgrimage yatra, despite such state may be secular or religious based. In India, the sacred document called Constitution of India guaranteed religious faith of a citizen though it may be secular structure.<sup>2</sup> The government of India has constituted a separate committee and board<sup>3</sup> for Islam pilgrims which make travel and visit to holy place of Islam with affordable subsidy. According to Constitution of India the matters pertaining to pilgrimage and pilgrims privileges enumerated in the provisions of Constitution.<sup>4</sup> The government of Gujarat issued an official order providing financial assistance to travel Kailash Manasarovar as a pilgrimage yatra. In Tamilnadu, the government of tamilnadu has ordered certain privileges to the pilgrims during their pilgrimage yatra. In which a Christian pilgrim can avail travel concession to visit pilgrimage yatra to Jerusalem the holy place of Christian community. In spite of the provision enumerated in Constitution of India excluding the role of religion in Indian democracy<sup>5</sup> the central and state can legislate law in pursuance of matters pertaining to pilgrimage privileges of worship within India or outside of India guaranteed under Union List, Entry 20 and State List, Entry 7.*

*In order to balancing secularism the government considered all religious group bonding and binding pilgrimage issues. This paper is exploring involvement of political power in balancing secularism without unbiased manner of worship to their citizens. The preamble of the Constitution is the basic structure of our democratic country. Hence government shall protect citizen’s worship rights and to provide privilege for promoting religious faith.*

**KEYWORDS:** Constitution of India, Yatra, Pilgrims, Secularism, Political, Financial Assistance, Subsidy

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### **Article History**

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<sup>1</sup> The meaning of the term religion has been stated that the religion concerns with conscience or a matter of faith; such meaning is interpreted in *S P Mittal v. Union of India case*

<sup>2</sup> Under Art.25 to 30 of the Constitution of India is emphasized that minority rights is to be considered as fundamental right. Moreover the principles of Preamble of the Constitution guaranteed the religious rights of every citizen in India

<sup>3</sup> **Hajj Committee and Hajj Board** was established even in 1932 by the British to provide travel subsidy to visit the holy places of Islamic worship in the world. The Hajj Committee Act, 2002 is regulating the Hajj Pilgrimage yatra.

<sup>4</sup> Art.246 read with Schedule VIII of the Constitution of India provides that state and central can legislate law relating to pilgrimage privilege within or outside India

<sup>5</sup> Art.225 of Constitution of India provides that “no person can either be excluded from or included in, any electoral roll only on the basis of his religion.”

## INTRODUCTION

Religion is a faith which leads social behaviour and culture. India is secular state and several religion are in practice like Hinduism, Islam, Christianity, Sikhism, Buddhism, Jainism etc., pilgrimage is a visit to spiritual places under their own desire or faith. The pilgrimage may be called as a social capital because it is binding the people in several sects. India is one of the constitutionally non-religious as well secular countries in the world (others are France, South Korea, Mexico and Turkey). In India, the principle of 'Unity and Diversity' has been major bond in Indian social values and binding the people between social behaviour. Religion is an integral part of every human life in the society particularly in India, the places where spiritual, holy and religious in nature are immensely available. At this juncture the concept of Secularism is a focal point in Indian political scenario. The organs of Indian Constitution like Judiciary and Legislature has to mutually balance the high value of secularism. In India the way of pilgrimage is a traditional concept. God is a spiritual concept and the stories were written and focused highly superstitious concatenation of belief God. Many Kings who ruled country in world based on religious text India is not that to exceptional in such faith and belief. In India the pilgrimage yatra has been motivated and spread from birth to death. In all religion has their own worship place to visit as pilgrims in order to satisfy their desire or attainment of birth goal. The phenomenon of the pilgrimage has been a focus point in various areas of academic research but in legal field no more special attention. The rights of the pilgrims have to consider strongly by the government and to make attention on their welfare is purely a political trends.

The India was separated by religion on 1947 by the people of Pakistan and they declared that the country is a religious country but the Indian leaders want to be unity and diversity of the people of India they never think of Hindu country though the doctrine of secularism was not inserted into our constitution originally at that time.<sup>6</sup> This paper is a socio-legal aspect of research paper and it has normalizing tolerance of people in religious point of social life. The state is balancing such tolerance in the aspect of religious worship and providing financial assistance to their journey or pilgrimage.

### The Meaning of 'Secularism' and 'Pilgrimage'

The concept of secularism and pilgrimage are one another opposite because pilgrimage is a journey towards the religious or spiritual faith or desire of a person or persons but the secularism is a doctrine that a government or state to adduce unbiased non-religious principles towards their citizen in order to all the subjects like education, tax, worship etc.,

India being a greatly having unity and diverse country must observe an attitude of neutrality and impartiality towards all religions. The concept of Secularism is conceived as a system where the mechanism by which the government either Central or State conducts the affairs of the State is independent of any religious beliefs. In other words, the State shall act without discriminating people or dividing them on basis of religion and/ or religious beliefs<sup>7</sup>

In a case *Prafull Goradia vs. The Union of India* the supreme court of India has observed that "*India is democratic country of tremendous diversity, which is due to the fact that it is broadly a country of immigrants, it is absolutely essential if we wish to keep our country united to have tolerance and equal respect for all communities and*

<sup>6</sup> The 42<sup>nd</sup> Constitutional amendment act, 1976 inserted the term secularism which defined that no religion shall be a part of affairs of the state or part of public education. It is also inserted in the preamble of the constitution of India.

<sup>7</sup> An article written by Salman Rushdie a supreme court advocate tiled as '*supreme court on secularism in India*' published on the newsletter of [www.harini.co.in](http://www.harini.co.in)

sects”<sup>8</sup>the concept of secularism is to be protected by all corners.

Pilgrimage means a journey based on religious or spiritual inspiration undertaken by individuals or groups to a place that is regarded as more sacred or salutary than environment of everyday life, to seek a transcendental encounter with a specific cult object for the purpose of acquiring spiritual, emotional or physical healing or benefit.<sup>9</sup> In the 20<sup>th</sup> century one kind of pilgrimage system was practiced that the pilgrims used to visit war victims cemeteries because these victim are focused as national heroes and patriots. In such pilgrimage is commemoration or war victims and monuments and visit to the houses of or graves of national heroes or famous battlefields is called as civil region pilgrimage.

Difference between tourism and pilgrimage is that a tourist is concerned with the experience of a place and only a visitor as a crowd it may be trip but a pilgrimage is a journey towards a destination of joy takes place. It is not only a faith based travel it may take place for life cycle events, for missionary work or humanitarian interest projects and for religious convention and conclaves. The pilgrimage may be classified into i) regional or local pilgrimage; ii) inter-state pilgrimage; iii) pilgrimages to abroad. Generally the regional pilgrims have not been gone to pilgrimages in a organized manner and also the state has not given any financial assistance to them. The inter-state pilgrims are motivated and going for pilgrimage by the assistance of state funds. The pilgrimages to abroad is so strictly regulated and provided assistance by the centre and state.

### **POLITICAL MANDATE ON PILGRIMAGES IN INDIA**

In Indian political trends various state governments have issued fancy policies towards pilgrims. In 2012, Madhya Pradesh government has introduced the *Mukhya Mantri Teertha Darshan Yojana*, which among the first of its kind. The first lot travelled to Rameshwaram that on September. This scheme targets 1 lakh persons in every year as pilgrims.<sup>10</sup> Under the statistical report that in the first nine months of current fiscal year around 89,000 pilgrims have been sent. They have been chosen by lots from all 51 districts of Madhya Pradesh state; on condition that one can travel only once. They are taken by train to sites such as Badrinath, Kedarnath, Jagannath Puri, Dwarka, Vaisnho Devi, Gaya, Haridwar, Shirdi Tirupati, Ajmer Sharif, Kashi, Sammed Shikar, Shravan Belagola and Velankanni Church. Even before the 2012, the BJP government started subsidising pilgrimages abroad that is Pakistan (Nankana Saheb, Hinglaj Mata Mandir), China (Mansarovar), Cambodia (Angkor Vat) and Sri Lanka (Sita Mandir, Ashok Vatika) for Rs 30,000 or 50% of the expenses from their total expenses, whichever is less.

In Uttar Pradesh there are two pilgrimages namely Kailash Mansarovar Yatra and Sindhu Darshan Yatra. By lots the government has selected 100 applicants for the Sindhu Darshan giving subsidy Rs 10,000 since 2015, when the Samaj vadi Party was in power. But for the Kailash Mansarovar pilgrims Rs. 50000 has been subsidised. Then the BJP government doubled it to Rs 1 lakh for the elderly pilgrims.<sup>11</sup>In Himachal Pradesh In its vision document for the polls recently won, the BJP promised a subsidy scheme for elders on free travel for senior citizens to religious sites in Dev

<sup>8</sup>Prafull Goradia vs. The Union of India judgement delivered by the supreme court of India dated 28<sup>th</sup> January 2011

<sup>9</sup> Peter jan margry (2008), *Shrines Pilgrimage in the Modern World: New Itineraries into the sacred, "Secular Pilgrimage: A contradiction in terms?"*, American University Press, Page 13-35;also refer [www.jstor.org](http://www.jstor.org)

<sup>10</sup> The pilgrims are particularly meant for senior citizens who don't pay income tax and poor citizen in nature.

<sup>11</sup>Sources from The New Indian Express an article "How state governments sponsors pilgrims to Haridwar, Ajmer, Jaruselum " by Verinder Singh Negi dated 18.01.2018

Bhumi.<sup>12</sup> In 2014 in Karnataka the Congress government has given subsidy to visit the Char Dham Yatra to Badrinath, Kedarnath, Gangotri and Yamunotri for elderly people from Karnataka.

In TamilNadu there are two pilgrimages subsidies i) for Hindus Mansarovar-Muktinath subsidy, it was announced in 2012. The state was inclined to bear Rs 40,000 of the estimated Rs 1 lakh per individual for air travel to Mansarovar and Rs 10,000 for those visiting Muktinath in Nepal both are pilgrimages to abroad. ii) for Christians travelling to Jerusalem, such pilgrims can get the subsidy benefits for 500 pilgrims with Rs 20,000 each between February and May. The pilgrims are selected by the department of backward class and minority of the government to get such benefits. Muslim community concerns a Hajj Committee was constituted in 1932 by the British government under port Hajj comemittee Act, 1932. The committee is organising the travel of Hajj the holy travel. The committee was reconstituted in 2002. Under this privilege the Islam pilgrim may get an air fare as the subsidy from the central government. Though the India is secular country giving subsidy for religious travel to their citizen might be a political mandate to catch the fish by the politician in the collour of democracy.

### **CONSTITUTIONAL VIEW ON PILGRIMAGES IN INDIA**

The constitution of India has provided various rights and privileges to their citizen. Particularly in the pilgrimage aspect concern that it is provided as a subject in union list<sup>13</sup> the Union government has to establish as to a subject-matter and to make arrangement for their people providing benefits and allocate funds in order to utilize for such benefits. The central and state governments have allocated funds for pilgrimages inside of India<sup>14</sup> and outside of India too. Though the provision of Constitution has restricted the state allocating funds to pilgrimages outside of India under this subject the state has generously made policies.<sup>15</sup> Under the distribution of Legislative powers head any subject matter other than enumerated in Union List in the Seventh Schedule the parliament or state legislature has exclusive power to make laws with this respect.<sup>16</sup> The supreme court of India also observed that the Article 246 and VII schedule may read together for constructive purpose.<sup>17</sup>

In the constitution of India the term secularism was inserted after 25 years though the principle was not there the judiciary has balanced the secularism concept through its landmark verdicts. In US law the secularism means that there should be a wall of separation between state and church. In India this concept is a part of fundamental law and principles of social justice and social order. It is a basic structure of our constitution.<sup>18</sup> The freedom and tolerance of religion is only to the extent of permitting pursuit of spiritual life which is different from the secular life.<sup>19</sup>

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<sup>12</sup>Char Dham Yatra. Manisha Nanda, additional chief secretary and principal secretary to the CM, said the vision document has been adopted as government policy and a decision will soon be taken. "We have to work out the modalities of the scheme," she said. This also reveals that the political manifesto prepared on such religious pilgrim basis.

<sup>13</sup> Union List Entry 20 of the Constitution of India; pilgrimages to outside of India

<sup>14</sup> State List Entry 7 of the Constitution of India; Pilgrimages other than outside of India

<sup>15</sup>The state may provide air travel to Mansarovar and visiting Muktinath in Nepal, Jerusalem visit etc., are pilgrimages to abroad

<sup>16</sup> Art.246 of the Constitution of India

<sup>17</sup>Godfrey Phillips India Ltd., v. State of U.P. (2005)2 SCC 515

<sup>18</sup> The preamble of the constitution is the basic structure and it cannot be altered or amended by the parliament held in Keshwananda Barathi v. State of Kerala and S.R. Bommai v. Union India

<sup>19</sup> Religion under Constitution and related laws [www.shodhganga.inflibnet.com](http://www.shodhganga.inflibnet.com)

## CONCLUSIONS

In a democracy the people are living in a decent livelihood because of the sovereign is elected by the people from their one of among. The religion and worship are faith and consciousness related matter so it is to be looked into very cautiously. The politicians are always touching their faith and getting their vote bank that is the motto of their political mandate. The Indian people are following the principles of Unity and Diversity they have strongly believed the non-religious life and faith. The Indian literature has contributed more on fundamental principles of secularism. The governments are also balancing the religious faith and humanism that is exchange of thoughts in a regular life system. Though a case was filed against the Hajj subsidy and the supreme court was also upheld the cancellation of Hajj subsidy in *Lokh Prahari through its General Secretary S.N. Sukhla v. Union of India and others* in this case Supreme Court Verdict on Cancellation of Haj Subsidy to Haj Pilgrimages on the ground that the Hajj Board has consented/admitted the cancellation dated 16.02.2018. By balancing the secularism the central and state has exclusively taken the matte as policy of the government and providing financial assistance for elderly or poor pilgrims is neutral and unbiased subject matter. The faith and worship is a integral part of every human life that to be preserved. So law is the instrument to exercise exclusive powers towards needy people and the state mandate has also to march towards poor citizen.

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