

Must religious beliefs impede development, wonders apex court

The Supreme Court, hearing arguments on the Ram Setu and a shipping canal project, Tuesday wondered if religious beliefs should be allowed to impede modernisation and development of the country.

Its observation came as lawyers argued before it that the dredging of the Ram Setu to develop a shorter navigational sea route around the Indian peninsula would go against religious beliefs, which enjoy constitutional protection and cannot be allowed to be disturbed.

The court resumed hearing the arguments on the vexed issue of the Ram Setu and the Setusamudram Shipping Channel Project Tuesday.

Ram Setu, also known as Adam's Bridge, is a chain of limestone shoals 48 kms long. Many Hindus believe that it was built during Lord Ram's era to facilitate his journey from southern India to Sri Lanka.

'But people consider even earth as mother and worship it; does it mean there should be no construction on it? They even worship the Himalayas, does that mean no stone can be removed from there?' asked the bench.

'How will it make a difference if 300 metres of the Ram Setu is cut (to make the passage for the ships)?' it asked.

One answer to the poser came from senior counsel C.S. Vaidyanathan, who said: 'It will destroy the fundamental character of the bridge. A bridge is a bridge because it joins two land masses. If a part of this is destroyed, it will no longer be a bridge.'

To make himself clear, he cited the example of judicial independence.

'The court decides all cases on its merit. If it is provided that courts will decide 99.99 percent of cases on its merit but it will decide the remaining cases as per the government directions, will there be any judicial independence left?' Vaidyanathan asked.

Senior counsel Soli Sorabjee said: 'A religious belief, which is genuinely and conscientiously held over a long period by a substantial number of adherents of a particular religion, becomes an integral part of that religion and is entitled to protection under Article 25 of the constitution.'

He added that, unless found mitigating with public order or morality, a religious belief cannot even be subjected to any restriction for the sake of 'public interest' as the constitutional freedom of speech and expression is subjective.

Sorabjee pointed out to the bench that freedom of religion also implies freedom to practice various rites and rituals associated with it and state has no authority to interfere with or ban those practices.

'It cannot be seriously questioned that it is the genuine and conscientious religious belief of the Hindus that the Ram Setu was constructed by Lord Ram and his followers, who crossed over the bridge to Sri Lanka and rescued Sita from the clutches of demon king Ravan. That indeed is the

essential theme of the Ramayana, which is an article of faith for Hindus,' he added.

'The issue before this court is not whether this belief can be historically or scientifically established. The court cannot sit in judgement over beliefs.

'The court's role is to determine if the belief about the Ram Setu is conscientiously held over a period of time by Hindus and, if that be so, it falls within the ambit of the freedom of religion guaranteed by Article 25,' he added.

Pointing out that the Ram Setu is worshipped by Hindus at Rameshwaram, Sorabjee said: 'Any state action, which results in impairment or even partial destruction of the Ram Setu, would lead to extinction or diminution of their right to worship the Ram Setu and it would violate their constitutional guarantee of freedom of religion,' said Sorabjee, summing up his argument.

Senior counsel K. Parasaran told the court that the demolition of the Babri Masjid in Ayodhya in 1992 was an unfortunate event and wounds arising out of it were yet to heal. 'The destruction of any part of the Ram Setu would leave a bigger scar on the religious faith of the Hindus,' he said.

As the court resumes its hearing Wednesday, it would be the turn of former central minister and Janata Party president Subramanian Swamy to present his argument in favour of protecting the Ram Setu.

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