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## The Deorala Judgement Glorifying Sati

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As with Bhanwari Devi, gross injustice was committed in the Roop Kanwar sati case, when yet another session court in Rajasthan, acquitted all 32 of the accused in October last year. Close on its heels came the triumphant 'mahayagna' to commemorate the 400th anniversary of the Rani Sati temple at Jhunjunu, the 'mother' of all sati temples.

'Aakhir Roop Kanwar Sati Ho Hi Gayi' the headlines in the Jaipur local daily sounded jubilant on September 5, 1987. Nine years later, on October 12, 1996, the same newspaper's headlines 'Aakhir Deorala ke rahiwasiyon ko nyay mil gaya' were positively exultant. A national daily was more specific: "Jubilant Rajputs across Aravalli ranges in north east Rajasthan drown protests against sati verdict". After all, thanks to the order of the Additional District & Sessions Judge of Neem-ka-thana, Shri Om Prakash Gupta, on October 11, 1996, all 32 accused in Roop Kanwar's murder, some called it sati, trial were acquitted. Deorala's reputation, not to forget Rajput honour, had been vindicated - with the blessings of 'sati mata' Roop Kanwar, the culprits will add.

Such a culmination of the nine year legal battle for booking those responsible for the killing of a 19-year old widow, was tragic and a blot on our criminal justice delivery system. More so as it came in the year of so called 'judicial activism', the much-banded accolade bestowed on our judiciary for its apparent commitment to mete out justice.

However, the acquittal was clearly predictable. Why it was Kalyan Singh Kalvi who forecast way back in 1988 that all the accused would be acquitted as there wouldn't be a shred of evidence. Everyone in Deorala and even Sikar district knew it. Maybe the whole of Rajasthan did too.

It would be worthwhile to recall the scandalous reactions of the so-called people's representatives then. While Kalyan Singh Kalvi of the 'social justice' Janata Dal probably shot into most prominence as a shameless defender of sati, others were no less subtle. Congress I's union minister of state for commerce, Priya Ranjan Das Munshi threatened

to burn a copy of the anti-sati law and to lead a padayatra to Deorala for 'protecting Hinduism'. While the then-prime minister, V.P. Singh maintained his mystic silence on the issue, his successor Chandrasekhar elevated Kalvi to union cabinet minister's post with the statement, "he may have glorified sati, but so do lakhs of people." Vijayraje Scindia, widow herself and vice-president of the BJP, which sponsored the formation of the Dharam Raksha Samiti to defend sati, went on record to say that "sati formed a part of Hindu faith and no woman wishing to be sati could be deprived." It is also worth recalling that despite the anti-sati legislation being passed, most political bigwigs of the day attended the chunri mahotsav to commemorate Roop's death, while Swami Agnivesh was arrested for trying to organise an anti-sati rally to Deorala in 1987.

The two glaring instances of miscarriage of justice by the courts, the Bhanwari Devi and Roop Kanwar cases 1995-1996, had many a thread in common. Both the crimes accused occurred in Rajasthan and to women. The accused in both were upper caste and influential. In both, there was vocal and active involvement of women activists and progressive forces on the side of the victims. In both, the traditional or fundamentalist forces and even political parties of all hues were clearly on the side of the perpetrators of the crime. In both, the courts failed to book these perpetrators and to deliver justice to the women victims.

In the Deorala case, the police had chargesheeted 38 persons sections 147, 302/ 149 and 201 of the IPC. Three of the accused were juveniles; Pushpendra Singh, Maal Singh's then 15-year old brother who lit the pyre on which Roop Kanwar was made to sit, is one of them. Their trial is still pending at the Juvenile Court in Jaipur. Three of the accused have not been tried as they are absconding.

In the Deorala judgement, those charged with murder and criminal conspiracy included Sumer Singh father of Maal Singh, Roop Kanwar's husband and his three brothers. The 21-page judgement said that the prosecution was unable to produce any eyewitness to the incident. It said that the accounts of the witnesses produced by the prosecution were based on hearsay. Although Roop Kanwar was alleged to have been dragged to the pyre forcibly and set afire by Pushpendra Singh, her 15-year old brother-in-law, the Court did not care to even consider how Roop Kanwar was burnt on the pyre, since she couldn't have lit it herself. In fact the glaring omission in the judgement is that it has not cared to adjudicate on how Roop Kanwar died. If she was not murdered. Was it suicide then? in which case the Court ought to have framed charges on abatement which it didn't. Or did the judge believe in the sati version?

## **Sati Murder in the Name of Worship**

Born into a well-to-do Rajput family based in Ranchi, Roop Kanwar was matriculate. She was married to 24-year old Maal Singh, a graduate in January 1987. In the seven months of her marriage she lived with her husband for barely 20 days immediately after her marriage and a few days before their deaths. The rest of the time she spent with her parents.

Maal Singh was admitted in the government hospital on September 3 and died the next day due to gastroenteritis. Preparations for his funeral began on September 4 after his body was brought back to Deorala.

There are two absolutely opposed versions to what happened subsequently.

The 'sati' version: Roop told her father-in-law, Sumer Singh of her intention to commit sati. She then decked herself in bridal finery and led the funeral procession to the cremation ground in the centre of the village. She ascended the pyre and placed her husband's head in her lap. Blessing the crowd assembled there and chanting the gayatri mantra, she slowly burnt to death on the pyre.

The factual version: (As condensed from 'Trial By Fire' a fact-finding report by Bombay Union of Journalists on Roop Kanwar's death.)

Far from being voluntary, in fact, Roop Kanwar's sati was the result of combination of events and actions which indicate the helplessness of the teenage widow. Preparations for the sati began immediately after Maal Singh's body was brought to the village in the morning. Roop Kanwar, who got an inkling of this, escaped from the house and hid in one of the dhani (barns) in the surrounding fields. The preparations had to be stalled as a search was made for her. Roop was found cowering in the barn and dragged to the house and put on the pyre at around 1.30 p.m.

On her way, she is reported to have walked unsteadily and was surrounded by Rajput youths. She was also seen to have been frothing at the mouth. She is seen to have struggled to get out when the pyre was lit, but Rajput youths with swords surrounding her made her escape impossible.

As to who lit the pyre, there can be no doubt that she did not light it herself. Eyewitnesses clearly stated to the police that it was lit by 15-year old Pushpendra Singh, the dead man's youngest brother.

Eyewitnesses reported to the police that they heard her shouting 'bachao' and crying for help. She struggled to get out but was weighed down with the coconuts and the heavy logs of firewood and also pushed back by armed youth. The sight of her flailing her arms about for help were interpreted by the villagers to mean that she was showering her blessings on them.

### **The Contents of the FIR**

According to the first information report (FIR) lodged by the main prosecution witness, Chandra Ram Jathi, constable at the Ajitgarh police station, Sikar, he got to know from an informer at 2.30 p.m. on September 4, 1987 that a young Rajput woman was committing sati. By the time he reached Deorala with two others, Ranjit Singh and Munir Khan, Roop was reduced to ashes. There were 125 people present and the women among them were chanting prayers loudly. On the basis of inquiries with villagers Rathi stated in his FIR that Mal Singh had died and his wife Roop Kanwar had decided to commit sati. Her in-laws did not dissuade her from the act.

#### **Upholding Sati (Excerpts from the Judgement)**

"Thus from the evidence of the prosecution witnesses, out of these witnesses no witness was present prior to the occurrence and they did not see anyone placing Roop Kanwar on the pyre or forcing her to sit on the pyre nor was Pushpendra seen giving the fire to the pyre. It is also not established from the evidence of these witnesses that in their presence the accused persons conspired with each other by burning Roop Kanwar and committing her murder nor any scheme was prepared or conspiracy was made or assembled for committing the offence to this effect. It is also not established from the evidence of these witnesses that they have seen the accused persons destroying the evidence concerning the murder or knowing of the offence of committing the murder of Roop Kanwar. It is not proved from the evidence of any witness of the prosecution that Shrimati Roop Kanwar had died due to burning in the pyre or she was forcibly burnt by Pushpendra Singh or somebody else killed her. The aforesaid

prosecution witnesses examined by the prosecution had given evidence on the basis of the story told or heard from the unknown persons and had not mentioned the occurrence seen with their own eyes. The prosecution had not examined those persons who have actually witnessed the commission of the alleged incidence.

"18. Thus according to the analysis of the evidence of the prosecution witness it is established that the prosecution had failed to prove the aforesaid offence beyond reasonable doubt against the accused. From the evidence produced by the prosecution no offence has been proved against the accused persons, the accused persons are liable to be acquitted of offences charged against them." (translated from the Hindi original).

According to Munir Khan who was with Rathi Singh, Sumer Singh, Dr. Magan Singh, Narendra Master and another 20 to 25 persons were present at the 'sati sthal' where others were doing 'parikrama' and chanting prayers loudly. He stated that inquiries revealed that Pushpendra Singh lit the pyre. A patwari and another local village official gave similar statements. Other crucial witnesses were the Srimadhapur police station in-charge, the tahsildar and duty constable, Ramavatar Singh, the station-in-charge.

### **Laxity of the Prosecution**

A consistent demand of those who were pursuing the Deorala case was that the case ought to be transferred to a court outside Sikar district, particularly outside Neem ka Thana court, as the area was under the social and political control of the Rajputs. The argument being that this was the ninth case of sati to have come up in the Neem-ka-Thana court and the same defence counsel, Kedar Nath Aggarwal, appeared in all. Predictably, in none of the cases were there any convictions; in fact, due to social pressure, this was the first case where murder charges were instituted.

Obviously, this social pressure was insufficient to get the case transferred elsewhere or to ensure a committed prosecution strategy. As correctly pointed out by analysts, the prosecution was literally sleep walking, hardly lifting an arm to ensure a foolproof case.

There were two independent fact- finding reports, 'Trial by Fire' by the BUJ and the other by Manushi, which could have been used as a basis for bolstering the prosecution case. The eye witness accounts mentioned in them were not pursued by the prosecution at all.

## Loopholes in the Judgement

The judgement can be faulted on the following grounds:

1. Since Roop Kanwar died under disputed circumstances in full public view, the aspect of suicide was not at all considered while framing charges. Alternate charges of abatement to suicide ought to have been framed. Further the Court did not go into the question of how Roop Kanwar died if she was not murdered.
2. Testimony of witnesses that Roop Kanwar almost fell off the pyre and that she was helped back on was ignored just as the testimony that Pushpendra Singh lit the pyre was.
3. Due weightage was not given to the deposition of the government employees who were prosecution witnesses and who named persons present at the site at the time of the incident. Nor did the Court give any importance to the testimony of Ms. Chandra Kala, the magistrate, in whose court the testimony of three of these witnesses, Babulal, Bodu and Bansi, that none of their testimonies were taken under pressure.
4. A vital lapse in the defense version, that Roop Kanwar's parents were not informed of their son-in-law's death nor the subsequent one of their, daughter's, was completely overlooked.
5. The fact that conservative Hindu culture does not permit a woman to walk to the cremation ground was not considered by the court. Nor was the aspect of who decorated Roop Kanwar in bridal finery.
6. That the funeral pyre on which Roop Kanwar was burnt to death had to be lit by somebody was completely ignored by the court.
7. The court was only too eager to accept the defence version that Roop's father-in-law, Sumer Singh was in a hospital on the fateful day, completely disregarding the prosecution case that Dr. Magan Singh, his brother, had forged hospital records. The judge dismissed the testimony of the witness Harilal with "the evidence of this witness is not worthy of trust that the entry in the name of Sumer Singh was made on the say of only Dr. Magan Singh. "

8. 8. In order to exonerate Dr. Magan Singh of forgery, the Court observed "this conclusion can not be taken that accused Sumer Singh was not present in Government Hospital Ajitgarh at 12.30 because being admitted at 12.00 and after 2 hours he can reach Deorala at a distance of 5 kilometers."

### **Time for Post Mortems**

There has been much self introspection, particularly from women's groups as to what went wrong to bring about such retrograde judgements in the Bhanwri Devi and Roop Kanwar cases particularly when these were two cases where women's groups were campaigning actively from the start. It wouldn't be wrong to say that both of them received national and international exposure mainly due to the work of these groups. However, the proclaimed 'conscious decision' of the Jaipur group of women's organisations to 'not follow the legal case' is incomprehensible and seems unpardonable too.

On this issue Indira Jaising , Senior Counsel, Supreme Court, expressed her views: "it is difficult if not impossible to successfully combat ideology in a court of law. This is the inherent limitation of the judicial process. This was a case in which the fight was essentially against the ideology of sati. Those who upheld this ideology could never have decided this case in any other way. Nevertheless such cases provide an important forum for which women's groups need to be actively involved with the prosecution to the last."

Many words have been spilt to as to a weak prosecution being responsible for the outcome in both the cases. This begs the question where would you get a committed prosecution from? In the present case, the government had at no stage showed any indication that it would oppose the Rajput lobby (without whose backing the government would not be in power anyway) by working wholeheartedly for conviction of the accused.

### **The Failing of Legislation**

The Commission of Sati (Prevention) Act, 1987 is seriously flawed in that it negates the fundamental social reality that sati is not a voluntary act, comparable to suicide, that sati is murder. The definition of sati is an act of 'burning or burying alive' of a widow or a woman under section 2(c). While

section 3 defined the punishment for an "attempt to commit sati" and section 4 for "abatement of sati". Nowhere is sati equated with murder; the Act clearly speaks of its as a voluntary act.

It defies logic how a woman who is coerced into community sati should then be held guilty for voluntary suicide and liable to punishment for six months in jail. As it follows the maxim that without a principal there can be no abettors; the act has had to treat the woman as an offender in order to catch all those who take part in the commission of a sati. It is also incomprehensible how qualitatively different crimes, murder and abatement, have been put on an equal footing where the death penalty or life imprisonment is meted out to both.

While 'glorification' is defined in section 2(b) of the Act, section 5 details the punishment. However, neither brings into its ambit the continuing worship offered in the various sati temples dotted all over the country.

Part III, section 7 empowers the state government to remove the temples and structures but not if they are more than 20 years old. So clearly temples such as the Rani Sati temple are protected. Section 8 empower the administration to seize properties and funds. It is not an innocent lapse that the Act does not include punishment to donors, among whom there are big business and industrialists like the Birlas and Jhunjhunwalas, but limits its ambit to collection of funds.

A whole chapter, Part IV, is devoted to special courts. Not a single one had been instituted in the last 10 years though. Section 9(2) states that Special Court can be constituted for the trial of offences under this Act and not only those offences which were committed after it.

S.19 disqualifies people's representatives from elections if connived under the Act. Thus having never been hauled up under the Act the likes of Kalyan Singh Kalvi happily contested elections and cornered cabinet rank post.

The opportunism of the Rajiv Gandhi government, which had earlier proclaimed the Muslim Women's (Protection of Right on Divorce) Act, was evident here as well. Caught in a cleft stick situation - it could neither say that sati was voluntary, which had been the practice all along till Deorala, nor was it willing to call it murder. As in most pieces of legislation enacted recently, here was another of those decorative ones which served no real purpose.



## **Sati as Worship and Business**

Even in that safe method employed by all governments to show token opposition to a particular social evil, the passing of a law, the state's anti- sati act firstly nowhere equates sati to widow murder. Secondly, it does not specifically target worship in the numerous sati temples in Rajasthan as instances of glorification of the offence (see box: The failing of legislation).

The whole legal debate on the sati issue has run on two parallel tracks. One has been the discussion on the Deorala case. And the other, the debate raised in the courts by the trustees of the various sati temples in the state and in the country that their fundamental right to worship was under violation as a consequence of the Act. A brief recount of the events after Deorala would give a picture of how totally ineffective the state anti-sati act and the subsequent central legislation have been in curbing the religious and commercial significance of sati worship in the state.

There was widespread public condemnation of the Roop Kanwar's immolation of September 4, 1987 and the equally reprehensible 'chunri' ceremony held 13 days later. A very vital aspect of the whole tragedy that soon came to the fore was that sati meant good business. Glaring evidence of this can be seen in that Deorala became a pilgrim spot, a prosperous one, overnight with its attendant shops, manufacturing concerns and regular stream of visitors. At the 'chunri mahotsav', two lakh people attended from whom Rs 70 lakh was collected according to a conservative estimate.

The state anti-sati act was soon replaced by a central act, The Commission of Sati (Prevention) Act 1987 (CPSA) which came into effect from January 3, 1988. Significantly, the Act did not have retrospective effect to cover the Deorala incident. The public outcry against the state government in preventing the 'chunri' ceremony forced the resignation of the Congress Chief Minister, Hardeo Joshi. There were demonstrations for and against. While the women's groups rallied together to organise a 3,000-strong protest rally at Jaipur immediately after, the passing of the state legislation against sati witnessed a 70,000-strong protest rally at Jaipur on October 8, 1987.

## **Sati in Rajasthan**

The discussion on the prevalence of sati in Rajasthan would be incomplete without analysing the impact of sati worship at the post-independence Rani Sati temple at Jhunjhunu, clearly the mother of all sati temples. Till the passing of the Act, the Deorala

incident was seen in isolation from the goings on at the Jhunjunu or any of the other sati temples. However, the Act linked the two up - one was a case of practice of sati and the other the glorification of it.

During the British reign, sati was prevalent largely in Bengal particularly around Calcutta, and certainly not in Rajasthan. The practice against which social reformists like Raja Ram Mohan Roy had to campaign and against which the British government passed a law in 1829 was said to be rampant in Bengal because of the prevalence of 'dayabhaga' inheritance laws which entitles widows to get a share in the property as well as due to extreme deprivation caused by the impact of colonialism. In fact the princely state of Jaipur was one of the first to implement the British regulation.

If we go into the history of the practice of sati in Rajasthan there can be no denying that the phenomenon of sati revival in Rajasthan is directly linked to the phenomenal expansion of the commercial returns of the Jhunjhunu Rani Sati temple. This has led to the proliferation of sati temples all over the state, particularly the Shekawati region ( comprised of Churu, Sikar and Jhunjunu districts). And wealthy businessmen hailing from this region have established sati temples in other parts of the country for example in Bombay and Delhi as well in a dozen foreign countries.

It is a fact that sati was prevalent in Rajasthan earlier, particularly during the time of the Moghul invasion. The Chittor mass satis are famous in the state as was the prevalence of the practice among the Rajputs for whom the death of a widow on her husband's funeral pyre was equal to a Rajput dying on the battlefield.

That the revival of the practice of sati in Rajasthan is linked to the success of the Rani Sati temple in Jhunjunu is clearly established by statistics. Today there are over 100 sati temples in Rajasthan. In the last 40 years, there has been an alarming increase in sati incidents in the state; an average of one a year. Not less than 28 widow immolations have taken place within a radius of 200 miles of the Jhunjunu sati temple since Independence.

It must be remembered that Jhunjunu is the ancestral centre for the Marwari business communities. Its entire economy depends much on the spendings of the visitors to the temple. There is an estimated turnover of Rs 4 crore from the annual mela there. The temple also attracts sizeable donations from prosperous families of business communities. The temple is managed by seven trustees, all of whom are Marwari businessmen settled in Bombay and Calcutta. The temple is said to be the mandatory site for the various rites of passage of several Marwari families dispersed all over the

country. In fact, the local population of Jhunjunu appear to have little to do with the management of the temple. The temple trust is headquartered at Calcutta which is reported to manage several other temples in Rajasthan.( All see box: The case against Rani Sati Mandir)

What comes strikingly to the fore is that women are extremely subjugated in the Rajput way of life. Rajasthan has one of the highest rates in illiteracy in the country where only 11 per cent female literacy has been recorded. Among Rajputs, widows are treated with extreme cruelty for whom life is as good as over. A childless widow, like Roop Kanwar, becomes an absolute threat.

### **The Case against Rani Sati Mandir**

**Excerpts from affidavit filed by Dr. Sudesh Vaid in Writ Petition No. 913 of 1988 AIDSWA v/s Union of India.**

"15).....For instance, at the Sati Savitri temple at Kotri, in adjoining Sikar district built in the memory of Savitri who was immolated on her husband's pyre on April 1, 1973, the two-eyed trishul is worshipped. The iconography in this temple makes the issue very clear; the altar has a female figure with a triangular brass head and a ghagra, an image of Durga astride the lion, and a trishul. The woman-Durga-sati linkage is evident.

"The Woman (in this case Savitri) acquires the Shakti of Durga who enters her and becomes the Sati Mata - a new, powerful goddess embodies in the two eyed trishul. The two-eyed trishul represents the apotheosis of the woman Savitri into the goddess sati mata Savitri Devi.

"17) Though there may be an overlap between the worship of Durga-Shakti and the worship of a woman who has been immolated, there is clear distinction between Durga temples and sati temples. The distinction is clear from the fact that Sati shrines invariably have an accompanying tale/ belief/ legend/ story of the immolation of a specific woman, whether recent or ancient. Durga temples have no such tale/ belief/legend/story.

"18) The Respondent's claim that the (Rani Sati) Mandir and Trust are in no way connected with the cult of burning widows and are opposed to Sati is incorrect as 13 of their shrines are dedicated to women who were immolated. Each of the 12 minor Sati shrines are dedicated to women who were worshipped as a goddess in the form of the two-eyed trishul. Each grave has engraved in marble directly above it the name of the woman, her goddess name as well as the name of the person who donated the money for

building the shrine.

"20:....No distinction can be made between the sati commemorated at Deorala and the satis commemorated in the Shree Rani Satiji Mandir, Jhuhunu...they are part of the same reprehensible tradition of immolation of women which is not unfortunately continuing in the present age. In fact there has been a revival of the custom which was dying out earlier in this country. the activities of the Shree Rani Satiji Mandir have actively contributed to the revival of this practice of immolation."

### **In Defense of Religion?**

The year 1988 saw the whole debate on sati reach its peak, with the anti-sati agitationists holding centre-stage and the pro-sati religious fundamentalists being on the defensive. The latter were to gain the upper hand subsequently.

On March 21, 1988, the state government passed an extraordinary gazette notifications banning all sati melas in the state. In a state where prior to 1987, the concerned district administrations used to extend full support to the annual sati melas, normally held between August and September, this was indeed a radical step. As for the annual mela at the Rani Sati temple, the mela day would be a declared state holiday where the attendance would be over a lakh. Special trains would run from Calcutta and Bombay, from where the largest number of pilgrims would arrive.

Immediately after the passing of the central Act, one Calcutta-based trustee of the Jhununu sati mandir filed a writ petition in the Calcutta High Court for performing annual puja. On August 18, 1988, Justices Ajit Kumar Sengupta and K.M.Yus of the Calcutta High Court passed an interim order permitting the trustees to conduct their "annual puja at his ancestral Rani Sati temple on September 10." They further directed the central and state governments not to "cause any interruption or harassment to visitors and devotees who may be visiting the said temple for daily worship, sewa and puja of the deities located inside the temple." The case for the sati temple was fought by none other than the late former Union Law Minister Ashoke Sen and Siddartha Shankar Ray (former Governor). They appeared on its behalf even at the Supreme Court when the Rajasthan government challenged this order in the Supreme Court.

On September 9, 1988, the Supreme Court passed orders that the 'chunri' ceremony ought not to be held within the Rani Sati Mandir and that the entire collection ought to be separately accounted for and deposited in a nationalised bank. The trustees, not to be

deterred, held the chunri ceremony outside the mandir. As for the collection, no Court has yet taken account of it. As per section 8 of the CSPA, it ought to have been confiscated by the Court or the government.

By 1992, there were 16 petitions pending before the Supreme Court among which one was by the All India Democratic Women's Association. Slowly, however, there is sure evidence that the religious forces began gaining ground by circumventing both the law and the Court's orders.

Instead of putting the brakes on this, the Courts also can be perceived to get drawn into the semantics of the whole issue. On April 29, 1992, the recourse of litigation was brought to a halt with the Supreme Court passing an order in all 16 petitions. Justices S. Ranganathan, V. Ramaswami and Yogeshwar Dayal ordered that as the cases raised certain constitutional issues regarding the scope of the fundamental rights guaranteed under Article 25, they be referred to a constitutional bench. And there it has been pending since then.

### **Article 25 Dissected**

The arguments of the pro-sati lobby before the Supreme Court has been that the worship at the various sati temples of Rajasthan is enshrined in Article 25 as a fundamental right. Further they argue that worship in those temples is not a violation of the anti-sati act as what is being worshipped are their goddesses or 'kuldevi' and not the actual practice of sati. In fact these petitioners have gone on record to say that they condemned the Deorala incident.

This has naturally given force to the arguments of the Rajput community, that every village must have a sati and a temple to commemorate it. This was spoken at a meeting organised at a meeting of the RSS-sponsored Dharam Raksha Samiti in Deorala in late 1987.

The fundamental right enshrined in Article 25 comes with the rider that it is subject to morality and public order. Surely no one can argue that to kill widows on the funeral pyres of their husbands is not harmful to morality and public order. And then what about the fundamental rights enshrined in the Constitution? Surely Roop Kanwar and all the satis before and after her had the right to equality and to life?

The Supreme Court in its judgements in the Mohammed Ahmed Khan versus Shah Bano Begum ((1985) 2 SCC 556) and the Mary Roy versus State of Kerala ((1986) 2 SCC 209) and their fall out, contrasted to the Supreme Court's April 29, 1992 order in the sati issue dramatise the women-law-tradition nexus in a political situation that is blatantly communal. In the former the scales were tilted in favour of women while in the latter, the court invoked Article 25.

The line has to be drawn somewhere as to where the worship of a goddess ends and glorification of sati begins. If no such lines can be drawn then the whole argument of the right to worship becomes totally meaningless. This has been the crux of the arguments of the women's organisations in their petitions before the Supreme Court.

### **1996: The Year of the Sati Triumph**

The year 1996 witnessed the pro-sati lobby finally gaining upper hand by mastering its legal strategy. Two highlights are sufficient to emphasise this: the acquittal of all the accused in the Roop Kanwar case on October 11 and the successful completion of a 10-day 'mahayagna' from November 24 to mark the 400th anniversary of Rani Sati. It wouldn't be far off the mark to assume that one event influenced the other. At any rate, coming in the face of the Deorala acquittal, the Jhunjunu 'mahayagna' would definitely be perceived to be a victory mela for the pro-sati lobby.

The BJP government in power in the state did not heed the pleas of concerned citizens to prevent the celebration which was clearly a criminal offence- under the CPSA inviting maximum punishment of seven years imprisonment. The Mahila Atyachar Virodhi Jan Andolan filed a writ petition in the Jaipur High Court for banning the 'mahayagna'. Justice Ashuman Singh issued an interim order on November 27 against the performance of the function "inside the temple building" while allowing it. The Court further directed that the 'chunri mahotsav' and the installation of 51-kg gold 'kalash' be stopped. The order came on the fourth day of the ongoing function. When the petitioners hauled up the district administration for contempt, it was given three weeks to file their counter-affidavit, by which time the 'mahayagna' was successfully completed! In fact, as the Court had not defined the term 'temple building' the trustees took advantage of this to hold the yagna inside the temple itself.

It won't be long before the residents of Deorala muster their forces to take the lead from these two events to complete their unfinished task. The construction of a temple to mark Roop Kanwar's immolation is sure to be on the cards. At present the site is

marked by Roop Kanwar's forlorn and faded 'chunri' atop a trishul surrounded by some 20 rusty swords where daily prayers are offered.

## **A Social Malaise**

In the final analysis, a deeper look at issues like sati and child marriages is required if we are to get answers to why justice was denied to Roop Kanwar and Bhanwari Devi. It would be extremely facile to point to both the victims being women or to Rajasthan's backwardness as the cause. Then again, the question arises, are the Courts more favourably inclined when the woman victim is from a minority community such as in the Shah Bano or Mary Roy cases? Specifically in Roop Kanwar's case, a mere post mortem of the case per se, as it was fought in the courts would get us nowhere.

To get to the bottom of the issue, an objective analysis needs to be made about why sati is continuing to be practised, worshipped and yes, marketed as well. Otherwise the whole issue of Roop Kanwar's death would remain as incomprehensible as the recent judgement.

Seen in the backdrop of both legislation and the courts being far from competent to tackle issues of religious fundamentalism, we need to make a fresh appraisal for the need for more vigorous activism which can focus on legal battles as well. At least this way, battles well begun will be well won.