



## SC Orders Re-evaluation of AMU's Minority Status

**For Prelims:** [Article 30](#), [Socialist](#), [Fundamental Right](#), [Directive Principles](#), [Articles 14 and 19](#), [1st Amendment Act, 1951](#), [Constitutional Amendment](#), [Parliament](#).

**For Mains:** [Minority Educational Institution](#), [AMU and Minority Institutions](#), Implications of SC judgment.

**Source:** [IE](#)

### Why in News?

Recently, a 7-judge bench of the [Supreme Court](#) (by 4:3 majority) in the case relating to the minority status of [Aligarh Muslim University \(AMU\)](#), overruled the **1967 judgment in *S. Azeez Basha vs. Union Of India*** which held that an institution **incorporated by a statute** cannot claim to be a [minority institution](#).

- The issue of whether AMU is a minority institution as per [Article 30](#) of the Constitution is now **left to be decided by a regular bench** based on this view of the majority.

### What are the Major Highlights of the Supreme Court Judgement?

- **Main Aspects of the Case Considered by the Court:**
  - Whether a University, established and governed by a statute (AMU Act 1920), can claim minority status.
  - The correctness of the 1967 judgment of the Supreme Court in [S. Azeez Basha vs. Union Of India](#) which rejected the minority status of AMU.
  - The nature and correctness of the 1981 amendment to the **AMU Act, 1920** which **accorded minority status** to the University after the decision in **S. Azeez Basha vs. Union Of India Case**.
  - Whether reliance placed on the **S. Azeez Basha vs. Union Of India** decision by Allahabad High Court in **AMU v. Malay Shukla in 2006** was correct in concluding that AMU being a non-minority institution could not reserve 50% seats for Muslim candidates in Medical PG Courses.
- **Key Highlights of the Recent Ruling:**
  - **The Overruling of Azeez Basha Judgment:** The SC overturned the 1967 ruling in **S Azeez Basha vs Union of India**.
    - In the **Azeez Basha case**, the SC Constitution bench had held that **AMU is not a minority institution** and to enjoy the status, it should have been **both established and administered** by the minority.
  - **Question of Minority Status Referred to Regular Bench:** The court did not directly decide **whether AMU is a minority institution** leaving the determination to a regular bench to investigate AMU's historical establishment.
    - **New Test for determining Minority status:**
      - **Establishment:** The first aspect of the test deals with the genesis or origin

of the minority institution, the **purpose of its establishment, and how the "idea" for the institution** was finally implemented.

- **Implementation:** Who contributed the funds for the institution? How was the land obtained or donated? Who obtained the necessary permissions, and handled the construction and infrastructure?
- **Administration:** The courts can look at the administrative set-up to see if it "affirms" the minority character of an institution.
  - If the administration does not seem to "protect and promote the interests of the minority", it could be "reasonably inferred that the purpose was not to establish an educational institution for the benefit of the minority community."
- **Minority Character of an Institution:** The court held that an institution's minority status shouldn't be dismissed solely because it was **created by law**, and courts **shouldn't rely strictly on legislative language** to determine its establishment. This would make **Article 30(1)**, a **fundamental right subservient to a statutory enactment**.
  - The court held that the word "established" as used in article 30(1) **cannot and should not be understood in a narrow** and legalistic sense.
  - The words used in clause 1 of article 30 have to be **interpreted in view of the object and purpose** of the article and the guarantee and protection it confers.
  - The right under Article 30(1) is guaranteed to minorities as defined upon the commencement of the Constitution.
  - The court further listed "**core essentials**" of minority character under Article 30(1).
    - While the purpose of establishing a minority institution should be the conservation of language and culture, **it need not be the only purpose;**
    - A minority institution **will not lose its minority character by** admitting students belonging to **non-minorities;**
    - **Secular education can be imparted** as a minority affecting its minority character;
    - If a minority institution has received aid from the government, no student can be forced to participate in religious instruction;
    - if the institution is **fully maintained out of state funds**, it **cannot provide religious instruction**.
      - However these institutions must still be considered minority institutions.
  - **Nature of Incorporation vs Establishment:** The judgment clarified that incorporation by legislation **does not negate minority status**. Merely formalising a university through law doesn't alter who originally established it.
    - The court rejected the argument that Muslims were not a minority in 1920 or did not think of themselves as a minority.
    - It said the **group must be a minority on the commencement** of the Constitution and **pre-Constitution institutions are also entitled** to protection under Article 30, even when founding a university.
    - **Article 30** will stand **diluted** if it is **to apply prospectively only** to the institutions which were established after the commencement of the Constitution.
    - The words '**incorporation**' and '**establishment**' **cannot be used interchangeably**. Merely because the AMU was incorporated by imperial legislation would not mean that it was not 'established' by a minority.
    - It cannot be argued that the University was established by the **Parliament** merely because the statute says it was passed to establish the University. Such a formalistic reading will defeat the objectives of Article 30.
- **Dissenting Opinion:** Three judges dissented from the majority holding differing views on the applicability of Article 30 to institutions established by statute.

## What are the Legal Provisions on Minority Educational Institution (MEI)?

- **Definition of Minority Educational Institution (MEI):** Article 30(1) of the Indian Constitution **grants minorities the right to establish** and administer educational institutions.
  - MEIs are defined under the **National Commission for Minority Educational Institutions Act, 2004**.
    - It defines a Minority Educational Institution (MEI) as a college or other institution

that is **established or maintained** by a minority or minorities.

- **Landmark Cases on MEIs:**
  - **Mother Provincial Case, 1970:** Defined "administer" in Article 30(1) as **managing institutional affairs** but allowed government interference in educational standards.
  - **AP Christian Medical Association Case, 1986:** MEIs must benefit a significant portion of the minority community to qualify.
  - **Yogendra Nath Singh Case, 1999:** Establishment and administration by minorities are both required for an institution to be considered a MEI.
  - **Unresolved Criteria for MEI Status:** In the [TMA Pai Case](#), 2022 it was established that minority status is determined at the state level, but criteria for MEI designation were left inconclusive.
  - **Azeez Basha Case, 1967 on AMU:** The Supreme Court ruled that **AMU was not a minority institution** since it was established by the AMU Act, 1920 passed by Parliament, rather than by a minority community.
- **Minority Status Exemptions:** [Article 15\(5\)](#) exempts minority educational institutions from reserving seats for SC/STs, impacting AMU, which currently had no SC/ST quotas as its minority status was under judicial review.
- **St. Stephen's College Case, 1992 Reference:** In 1992, the SC upheld St Stephen's College's right to administer independently and reserve 50% of seats for Christians.

## What is the Timeline of the AMU Dispute?

- **The Muhammadan Anglo-Oriental College Founded, 1875:**
  - [Sir Syed Ahmad Khan](#) established the **Muhammadan Anglo-Oriental College** in Aligarh, with the aim of **providing modern education** to Muslims in India, who were perceived to be socially and educationally backward. The institution later becomes the basis for AMU.
- **AMU Takes Shape, 1920:**
  - The Aligarh Muslim University Act was passed by the **Indian Legislative Council**, formally transforming the MOA College into Aligarh Muslim University (AMU).
- **S. Azeez Basha vs. Union of India, 1967:**
  - The Supreme Court ruled that AMU cannot be classified as a minority institution under Article 30.
  - The ruling emphasizes that **AMU was a central university**, not one "established or administered" solely by the Muslim community, thus it does not qualify as a minority educational institution.
- **AMU Act Amended to Grant Minority Status, 1981:**
  - In response to the 1967 ruling, the Union government amended the AMU Act in 1981, declaring that AMU was indeed "**established by the Muslims of India**" to promote the educational and cultural advancement of Muslims.
    - This amendment grants AMU minority status.
- **AMU Reservation Controversy, 2005:**
  - AMU introduces 50% reservation for Muslim students in postgraduate medical courses.
  - The Allahabad High Court struck down the reservation policy in 2006, **ruling that AMU could not claim minority** status because it was not a minority institution as per the 1967 Supreme Court decision.
  - This is based on the reasoning that AMU was not "established or administered" by the Muslim community, thus it does not meet the criteria under Article 30.
- **Government Withdraws Appeal, 2016:**
  - The **government withdraws its appeal** in the Supreme Court against AMU's minority status, arguing that **AMU does not qualify as a minority** institution, reinstating its position based on the 1967 ruling.
  - The government maintains that **AMU renounced its religious status** when it was established as a central university in 1920.
- **Seven-Judge Bench, 2019:**
  - A three-judge bench **referred the issue to a larger seven-judge** bench to resolve the

legal questions surrounding AMU's minority status.

▪ **The Latest Verdict, 2024:**

- A seven-judge Supreme Court Bench, by a 4:3 majority, overturned the Allahabad High Court's ruling on minority status criteria in the **S Azeez Basha vs Union of India case**.
- This ruling opens the possibility for Aligarh Muslim University (AMU) to obtain recognition as a minority institution.

## Conclusion

- The recent Supreme Court decision to revisit the minority status of AMU highlights the **ongoing legal and constitutional debate over Article 30**, which grants minorities the right to establish and administer educational institutions.
- By overturning the 1967 *Azeez Basha judgment*, the court has opened the door for AMU to potentially reclaim its minority status. As the issue now rests with a regular bench, the ultimate decision will **shape the future of minority educational rights** and set a precedent for similar institutions across India.

### **Drishti Mains Question:**

Discuss the implications of the Supreme Court's recent decision to review Aligarh Muslim University's minority status on India's constitutional framework for minority rights.

## **UPSC Civil Services Examination Previous Year Question (PYQ)**

### **Mains:**

Q. Whether National Commission for Scheduled Castes (NCSC) can enforce the implementation of constitutional reservation for the Scheduled Castes in the religious minority institutions? Examine. (2018)

PDF Reference URL: <https://www.drishtias.com/printpdf/sc-orders-re-evaluation-of-amu-minority-status>