



Dispute Over Minority Status of AMU

For Prelims: Dispute Over Minority Status of AMU, [Supreme Court \(SC\)](#), [Article 30\(1\)](#), Minority Institutions, S. Azeez Basha vs Union of India.

For Mains: Dispute Over Minority Status of AMU, Government policies and interventions for development in various sectors and issues arising out of their design and implementation.

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Why in News?

Recently, the [Supreme Court \(SC\)](#) has observed on the Aligarh Muslim University's (AMU) minority status that an educational institution does not lose its minority status merely on the ground that its administration is regulated by a statute.

- The Centre before the SC had said minority educational institutions are not required to implement the reservation policy under **Section 3 of the Central Educational Institute (Reservation in Admission) Act, 2006 (as amended in 2012)**.

When did the University's Minority Character Come Under Dispute?

- **History of AMU:**
 - The roots of **Aligarh Muslim University (AMU)** can indeed be traced back to the **Muhammadan Anglo-Oriental (MOA) College**, established by **Sir Syed Ahmad Khan** in 1875.
 - The primary aim was to **address the educational backwardness among Muslims** in India during that period.
 - In 1920, the institution gained **University status through an Act of the Indian Legislative Council**. This transition elevated the MOA College to become Aligarh Muslim University (AMU).
 - The university inherited all the assets and functions of the MOA College. The official title of the AMU Act was "An Act to incorporate a teaching and residential Muslim University at Aligarh."
- **Origin of Dispute:**
 - **Legal Challenges to the AMU Act 1920:** The dispute over the minority character of Aligarh Muslim University (AMU) emerged prominently in 1967, stemming from **legal challenges to amendments made in 1951 and 1965** to the AMU Act of 1920.
 - Key changes included **replacing the position of the 'Lord Rector' with a 'Visitor,'** who would be the **President of India**.
 - **Allowed Non-Muslims to be Part of University Court:** Provisions restricting membership in the University Court solely to Muslims were removed, allowing **non-Muslims to participate**.
 - Furthermore, these **amendments reduced the authority of the University Court** while enhancing the powers of the Executive Council, essentially making the

Court a body appointed by the 'Visitor.'

- The legal challenge in the Supreme Court was primarily based on the assertion that Muslims had established AMU and thus had the right to manage it.
- **Supreme Court's Ruling:** In 1967 the SC held that while Muslims might have initiated the establishment of a university in 1920, this **wouldn't have guaranteed official recognition of its degrees by the Indian government.**
 - A five-judge constitution bench of the top court in the **S Azeez Basha** versus **Union of India case**, 1967 held that since **AMU was a central university, it could not be considered a minority institution.**
 - The crucial point in the court's ruling was that **AMU was established through a central Act to ensure government recognition of its degrees**, indicating that the **Act itself wasn't solely the product of the Muslim minority's efforts.**
 - The court emphasised that while the Act might have been a result of the Muslim minority's endeavours, **it didn't imply that the university, under the 1920 Act**, was established by the Muslim minority.
- **Minority Character:** This legal challenge and subsequent SC's ruling in 1967 brought into question the perception of AMU's minority character, arguing that its establishment and administration **weren't solely rooted in the efforts of the Muslim minority** as initially argued.
 - The **AMU** had been accorded the status of "**institution of national importance**" by the Union government of India through the AMU Act of 1981.

Why Does the Dispute Persist?

- The SC's ruling led to nationwide **protests from Muslims, prompting a 1981 amendment** affirming AMU's minority status.
 - In response, the Union government introduced an **amendment to the AMU Act in 1981** and explicitly affirmed its minority status by adding **Section 2(I) and Subsection 5(2)(c) of the AMU Act.**
- In 2005, AMU reserved 50% of postgraduate medical course seats for Muslim candidates. However, the **Allahabad High Court overturned** this reservation, **nullifying the 1981 Act.**
 - The court reasoned that as per the SC's **S. Azeez Basha vs Union of India**, case **AMU didn't qualify as a minority institution.**
- In 2006, eight petitions, including one from the Union government, contested the decision of Allahabad High Court before the Supreme Court.
 - In 2016, the **Union government withdrew its appeal**, stating that establishing a minority institution contradicted a secular state's principles.
- In 2019, a three-judge Bench **presided by the then CJI Ranjan Gogoi referred** the matter to a seven-judge Bench.

What are the Observations of the Supreme Court in the Ongoing AMU Case?

- **Doesn't Lose Minority Status if Regulated by Statute:**
 - The court highlighted that the regulation by statute **doesn't diminish an institution's minority status**, emphasising that **Article 30 of the Constitution** doesn't mandate exclusive administration by the minority community.
- **Can have Secular Administration:**
 - A minority institution need not exclusively offer religious courses and can have a secular administration, admitting students from diverse communities.
 - One of the questions before the Constitution Bench is whether an institution could be regarded as a minority educational institution for the reason that it was "established by a person(s) belonging to a religious or linguistic minority.
- **Majority community in Administration does not affect the Minority Status:**
 - The presence of office-bearers from a majority community in some administrative wings of educational institutions does not **necessarily dilute their minority character.**

What are Different Cases of the Supreme Court Related to Minority Community?

- **TMA Pai Case:**
 - The SC had said that for the purposes of Article 30 that deals with the rights of minorities to establish and administer educational institutions, **religious and linguistic minorities have to be considered state-wise.**
- **Bal Patil Case:**
 - In 2005, the SC in its judgement in 'Bal Patil' referred to the TMA Pai ruling.
 - The legal position clarifies that **henceforth the unit for determining status of both linguistic and religious minorities would be 'state'.**
- **Inamdar Case:**
 - The SC judgement in the *Inamdar case, 2005* ruled that the state cannot impose its **reservation policy on minority and non-minority** unaided private colleges, including professional colleges.
 - The court declared that reservation in private, unaided educational institutions was unconstitutional.

What are Constitutional and Statutory Provisions Regarding Minority Communities?

- **Article 29:**
 - It provides that **any section of the citizens residing in any part of India** having a distinct language, **script or culture of its own**, shall have the right to conserve the same.
 - It grants **protection to both religious minorities** as well as linguistic minorities.
 - However, the SC held that the scope of this article is not necessarily restricted to minorities only, as the **use of the word 'section of citizens' in the Article includes minorities as well as the majority.**
- **Article 30 (1) of the Constitution** empowers all religious and linguistic minorities to establish and administer educational institutions.
 - The SC stated that **Article 30 of the Constitution is not to "ghettoise the minority"**.
 - This provision reinforces the **Union government's commitment to foster growth** and development of minority communities by guaranteeing that it will not discriminate in giving aid on the basis of **their status of [Minority Institutions](#).**
- **Article 25:**
 - Article 25 of the Indian Constitution protects **freedom of conscience and free profession**, practice and propagation of religion.
- **Article 26:**
 - The [Article 26](#) of the Indian Constitution provides **every religious denomination** (or any section of it) the right to establish and maintain institutions for religious and charitable purposes.
- **Article 27:**
 - It sets **freedom as to payment of taxes** for the promotion of any particular religion.
- **Article 28:**
 - It gives **freedom as to attendance at religious instruction** or religious worship in certain educational institutions.
- **National Commission for Minorities (NcM):**
 - The [NCM](#) is an autonomous body established by the **Indian government in 1992 under the National Commission for Minorities Act, 1992.**
 - The setting up of the Commission was envisaged in the Ministry of Home Affairs Resolution of **1978 for the enforcement and implementation** of all the safeguards provided for the Minorities in the Constitution.
 - It is responsible for advising the central and state governments on matters related to the **welfare and development of minority communities** in India.
 - Initially five religious communities, viz., **Muslims, Christians, Sikhs, Buddhists and Zoroastrians (Parsis)** were notified as minority communities by the Union Government. In **2014, Jains were also notified as another minority community.**

UPSC Civil Services Examination Previous Year Question:

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)**

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