

AMU Can't Get Minority Status Centre To Supreme Court

Why In News

- A **seven-judge Bench** of the Supreme Court on Tuesday started hearing the matter pertaining to Aligarh Muslim University's minority character. This is a dispute that dates **back almost 57 years** and has been adjudicated upon multiple times by different courts.



'Minority Character' Of An Educational Institution

- **Article 30(1) of the Constitution** empowers all religious and linguistic minorities to establish and administer educational institutions.
- 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 being '**minority**' institutions.



Aligarh Muslim University

- AMU's origins can be traced back to the **Muhammadan Anglo-Oriental (MOA) College**, established by **Sir Syed Ahmad Khan in 1875 to help Muslims** overcome educational backwardness and prepare for government services. MOA not only imparted Western education but also emphasised Islamic theology. Sir Syed also advocated for women's education.



- In **1920, the institution was conferred university status** and all assets of MOA College were transferred to it. The long title to the AMU Act read: "An Act to incorporate a teaching and residential Muslim University at Aligarh."

What Is Dispute

- The legal dispute over AMU's minority **status dates back to 1967** when the Supreme Court (in *S. Azeez Basha and another versus Union of India*), led by then **Chief Justice of India KN Wanchoo**, was reviewing changes made in 1951 and 1965 to the AMU Act of 1920.



- These amendments affected how the university was run. For instance, originally, the 1920 Act said that the **Governor General of India** would be the head of the University. But in 1951, they changed it to replace **‘Lord Rector’ with ‘Visitor,’ and this Visitor would be the President of India.**
- Further, a provision that said **only Muslims could be part of the University Court** was removed, allowing **non-Muslims to join.**



- Additionally, the amendments **reduced the authority of the University Court** and increased the powers of the Executive Council of AMU. As a result, the Court essentially became a body appointed by the ‘Visitor’.
- These alterations in the AMU’s structure **faced a legal challenge in the Supreme Court.** The petitioners argued primarily on the grounds that Muslims established AMU and, therefore, had the right to manage it.



- It was while considering the challenge to these amendments that **the top court held on October 20, 1967**, that AMU was neither established nor administered by the Muslim minority.
- The highest court determined that in **1920, Muslims could have set up** a university, but that would not have guaranteed that the degrees from that university would be officially recognised by the Indian government.
- Additionally, **according to the 1920 Act**, the SC stated, the university was not solely operated by Muslims.
- Instead, its administration was entrusted to the Lord Rector and other statutory bodies.
- **Even the University Court**, which had only Muslim members, was elected by an electorate which was not exclusively Muslim, the Supreme Court noted.



- **In 2005, the AMU implemented a reservation policy, reserving 50% of seats** in postgraduate medical courses for Muslim candidates.
- This was challenged in the Allahabad High Court, which, in the same year, overturned the **reservation and nullified the 1981 Act**.
- The court reasoned that the AMU could not maintain an exclusive reservation because, according to the Supreme Court's verdict in the S. Azeez Basha case, it did not qualify as a minority institution.
- **In 2016, the NDA government informed the SC** that it was withdrawing the appeal filed by the government, saying, "as the executive government at the Centre, we can't be seen as setting up a minority institution in a secular state."

- On February 12, 2019, a three-judge Bench presided by the then CJI Ranjan Gogoi referred the matter to a seven-judge Bench.

SC Statement

- The Bench, comprising Chief Justice of India DY Chandrachud, Justices Sanjiv Khanna, Surya Kant, JB Pardiwala, Dipankar Datta, Manoj Misra and Satish Chandra Sharma, started hearing the case.
- Supreme Court observed that an **educational institute is not barred from enjoying minority status** merely because it is regulated by a statute, while hearing a case concerning the minority status of the Aligarh Muslim University.
- Under Article 30, (right of minorities to establish and administer educational institutions) of the Constitution, there **need not be absolute administration** by a **minority group** to claim such a status.



- AMU was held to be a **Central University by the Supreme Court in the 1968** case of S Azeez Basha vs Union of India. In the said case, the Court also held that a **minority status under Articles 29 and 30** of the Indian Constitution cannot be conferred on a Central University.
- The CJI said that Article 30 – which deals with the right of minorities to establish and administer educational institutions – uses the expression **“establish and administer”** and to make Article 30 effective, "we do not have to postulate the administration by **absolute minority**".
- However, the minority status of **AMU was later reinstated** by bringing in an amendment to the AMU Act.
- Presiding over a 7-judge Constitution Bench hearing a clutch of pleas concerning the minority status of of the Aligarh Muslim University (AMU), he said: "The

State in public interest is entitled to **regulate administration** to ensure that conditions of service of teachers are fair, the staff of the institution is not maltreated or deprived of basic condition of service, minimum requirement for conferment of degrees, standards of examination, standards of syllabus or curriculum.



- "There are a **variety of administration requirements** which the state can impose. That does not detract from the (minority character of the institution). That applies across the board, irrespective of whether it is a minority or non-minority institution."
- Further, the CJI said that there exists **no statutory or constitutional definition** of the **term "administer"** noting that the Aligarh Muslim University does not have to solely administer religious courses or should offer admissions to any particular community.