



KAMARAJ IAS ACADEMY
Only IAS Academy by Grandson of "Perunthalsivier Kamarajar"

Legal dispute over AMU's minority character

Published On: 12-01-2024

Why is in news? What is the long-running legal dispute over Aligarh Muslim University's minority character?

A seven-judge Bench of the Supreme Court on January 9 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.

What is the '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.

Origin of AMU:

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."

About the university's 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**.

Kamaraj IAS Academy

Plot A P.127, AF block, 6 th street, 11th Main Rd, Shanthi Colony, Anna Nagar, Chennai, Tamil Nadu 600040

Phone: **044 4353 9988 / 98403 94477 / Whatsapp : 09710729833**

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**.

It emphasized that AMU was **established through a central Act** to ensure the government's recognition of its degrees.

It also stated that the **university was not solely operated by Muslims**.

Why does the dispute persist?

The SC ruling triggered nationwide protests from Muslims. In response, political authorities yielded **in 1981** and **introduced an amendment to the AMU Act, explicitly affirming its minority status**.

The amendment introduced **Section 2(l) and Subsection 5(2)(c)**, which stated that the university was "an educational institution of their choice established by the Muslims of India" and "subsequently incorporated" as the AMU.

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.

Subsequently, **in 2006**, a set of eight petitions, including one from the Union government, contested the High Court's decision before the Supreme Court.

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.

On January 9, 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.

Minorities in India:

The expression minorities appear in some Articles of the Constitution, but is **not defined anywhere**.

The subject of **identification of the minority community** is on the **Concurrent List**.

Currently, the central government decides who gets the minority community status in India. It is done under the **National Commission for Minorities Act, 1992**.

Kamaraj IAS Academy

Plot A P.127, AF block, 6 th street, 11th Main Rd, Shanthi Colony, Anna Nagar, Chennai, Tamil Nadu 600040

Phone: **044 4353 9988 / 98403 94477 / Whatsapp : 09710729833**

Only those belonging to the communities notified **under Section 2(c) of the 1992** law are regarded as minority citizens.

However, this arrangement may change soon.

In March 2022, the central government told the SC that **states could decide the minority status of the eligible communities** within their territorial jurisdiction.

This came as a response to public interest litigation (PIL) filed by Ashwini Upadhyay contending that those from the majority communities in some states are treated as minority citizens and therefore corner undue benefits.

Current Status:

Under this law, Centre had notified **five groups** — Muslims, Christians, Sikhs, Buddhists, Parsis and Jains — as ‘**minority**’ communities.

Jains were added to the list in January 2014.

Constitutional provisions dealing with rights of minorities

Article 29 deals with the Protection of Interests of Minorities.

Article 30 deals with the right of minorities to establish and administer educational institutions.

Article 350(A) says there shall be a Special Officer for linguistic minorities to be appointed by the President.