

Aligarh Muslim University Judgement

Why in news?

The recent judgement by the 7-judge bench of Supreme Court on AMU case redefined minority rights and laid down a holistic test to determine the 'minority character' of an educational institution.

What is Minority Educational Institution?

- **Minority Institution** - An institution established and administered for the educational development, religious or secular education, of the community by the minorities.
- **Minority** - Though "Minority" is not defined in the Indian Constitution, it recognizes religious and linguistic minorities.
- The Central Government has notified six religious minority communities viz. Muslim, Christian, Sikh, Buddhist, Parsi and Jain.
- **Fundamental right** - All minorities, whether based on religion or language, shall have the fundamental right under **Article 30(1) to establish** and administer educational institutions of their choice.
- **NMCEI** - National Commission for Minority Educational Institutions (NCMEI) grants minority status to educational institutions.
- State governments also grant minority educational status to institutions within the state.
- **Benefits of minority status**- Greater control over their day-to-day administration from student admission to the hiring of teaching and non-teaching staff.
- **Student admissions** - A minority institution can admit non-minority students without losing its minority character.
- **No SC/ST reservation** - Article 15(5) introduced in 2006, exempted minority educational institutions **from reserving seats** for Scheduled Castes and Scheduled Tribes.
- **Minority reservation** - It can reserve up to **50%** of seats for minority students, providing flexibility while still prioritizing minority representation.

In the T.M.A Pai Foundation (2002) case, the SC clarified that a 'minority' is to be determined by the concerned State's demography, not the national population.

What is the background of the case?

- **Mohammedan Anglo-Oriental College** - In 1875, Sir Syed Ahmad Khan founded the

Muhammadan Anglo-Oriental (MAO) College in Aligarh, Uttar Pradesh.

- The college was designed after the British educational system, with the goal of integrating Western science and literature with Islamic subjects.
- **University status** - The Aligarh Muslim University Act, 1920 by the Indian Parliament, elevated the MAO College to the status of a Aligarh Muslim University (AMU).
- **The 1951 amendment** - It took away compulsory religious instructions for Muslim students at the AMU.
- **S. Azeez Basha v Union of India case (1967)** - The judgement took away the minority status of the AMU In 1967 stating that AMU was neither established nor administered by the Muslim minority.
- It came into existence through an Act of the central legislature and did not, therefore, qualify as a minority institution under Article 30 of the Constitution.
- **AMU amendment act (1981)** - It Conferred complete minority character to the AMU.
- **50% reservation for muslim** - AMU introduced the reservation for Muslim students in 2005.
- **Removal of minority status** - Allahabad High Court judgement (2006) struck down both *50% reservation for Muslim* and the **AMU Amendment Act (1981)** .
- **Appeal** - Government filed the appeal before the Supreme Court against the 2006 verdict of the Allahabad High Court.
- **Constitution bench** - Following this, the Supreme Court constituted a seven-member Bench to deal with a reference arising out of the 2006 order passed by the Allahabad High Court.

What are the constitutional tests to determine the minority status?

- **Genesis** - Trace the origin of the idea for the establishment of the institution to determine the brain behind the establishment.
- For proof, a variety of sources could be considered — letters, correspondence with other community members or government officials, etc.
- The link must point towards one member of the minority or a group from the community.
- **Purpose** - It must “predominantly” be for the benefit of the minority community, even if it is not the sole purpose.
- **Implementation** - Examining the source of funding, land donations and constructors of the infrastructure.

What are the significances of the supreme court judgement?

- **Overtures Azeez Basha case judgment** - New Judgement held that Statutory recognition to a minority institution doesn't remove its minority status.
- **Purpose** - While the purpose of establishing a minority institution should be the conservation of language and culture, it need not be the only purpose.
- **Admission** - A minority institution will not lose its minority character by admitting students belonging to non-minorities.
- **Administration** - The administration of an minority educational institution does not

need to be handled by the minority community.

- Its administration must reflect a commitment to protecting and promoting minority interests.
- **Education** - Secular education can be imparted at a minority institution without affecting its minority character.
- **Government aid** - 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.
- **AMU status** - Supreme Court further constituted three-member bench in its recent judgement to decide minority character of AMU.

Reference

[The Indian Express |AMU Minority Status Case Judgment](#)

