

ALIGARH MUSLIM UNIVERSITY vs NARESH AGARWAL AND OTHERS

On November 8, 2024 the Supreme Court delivered a historic judgment in the case of ***Aligarh Muslim University vs. Naresh Agarwal and Others***, overturning its 1967 decision in ***Azeez Basha vs. Union of India***. The earlier ruling had declared that Aligarh Muslim University (AMU) was not a minority institution. In a closely split 4:3 decision, a seven-judge bench led by the Chief Justice of India, redefined the criteria for identifying minority institutions. However, the court refrained from conclusively ruling on AMU's minority status and instead relegated the matter to a regular bench for further examination.

The questions for determination before the Apex Court in this case were-

1. What are the parameters for granting an educational institution Minority Status under Article 30 of the Constitution?
2. Can an educational institution created by a parliamentary statute enjoy Minority Status under Article 30 of the Constitution?

The view taken in *Azeez Basha* was that an educational institution is not a minority if it derives its legal character through a statute. This dictum was overruled and it was held that an institution will not lose its minority status merely because it was created by a statute.

The majority opinion authored by the Hon'ble Chief Justice delineated the indicia or the parameters to be looked at for the determination of minority status of an institution:

1. *"Incorporation" vs. "establishment"*: The court while highlighting the distinction between the "incorporation" and "establishment" held the former refers to bestowing of a legal character upon an institution whereas the latter refers to bringing of the institution into existence. Since Article 30 uses the term "establishment" and of the institution, the courts must inquire into whether the initial idea to set up the institution emanated from the minority group.
2. *Intent of establishment*: The establishment must predominantly be for the benefit of the religious or linguistic minority. It is not necessary that the educational institution was established only for that community.
3. *Source of funding*: The courts can rely on information such as who contributed the funds in the establishment of the institution, who purchased the lands or whether the land was donated by a person of the minority community. Other aspects that can be considered include who obtained relevant permissions, and constructed the buildings and the infrastructure. If state funds or aid was provided to the institution, it would be necessary to check if the aid was provided after establishment. If yes, then the minority character would not be changed.

4. *Administration*: The administration must reflect its minority character and show that it was created to protect and promote that minority community's interests.

Furthermore, the judgement also highlighted that there can be no strait-jacket formula for the determination of the question of minority status and will differ from a case to case basis.

The Supreme Court gave a number of clarifications on the interpretation of Article 30 of the Constitution of India which protects the rights of religious and linguistic minorities to establish and administer educational institutions

Some other key points that were highlighted in the ruling were :-

- **The purpose of Article 30(1)** is dual in nature ie. as an anti-discrimination provision and creation of a special right. The anti-discriminatory facet exists to override legislative and executive decisions which discriminate against religious or linguistic minorities whereas the special rights aspect empowers minority communities to establish institutions for their benefit and enjoy autonomy in their administration.
- Religious and linguistic minorities have to prove that they established the educational institution to **benefit their community** in order to claim protection under Article 30(1).
- The rights under this Article extend to universities **established before the making of the Constitution**.
- *Statutory incorporation* does not automatically strip an institution of its minority character.

This judgement is a crucial moment in the interpretation of minority rights in India and could potentially impact several educational institutions in the country.