

Minority Institutions and the Question of Autonomy: A case of Aligarh Muslim University

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Abstract:

India is a multi-cultural, multi- religious and multi-linguistic country .This has been acknowledged by the constitution of free India. Each and every community has been given fair share for their development through education. The autonomy has been granted to the institutions run by the minorities to promote and adjust their interest with mainstream and save themselves from marginalization. Certain other safeguards have been granted them constitutionally and on the principles of democracy.

In recent time many committees like Pathan committee have been constituted for bringing uniform system of administration of the central universities in the name of ensuring qualitative and meet the need of market economy.

AMU is the leading university administered by Indian Muslims .How the Pathan and other committee would affect the aims and objectives of AMU and other universities established for special purposes by uniform administration of the Central universities? This paper is meant to study all those aspects which would affect the aims and objectives of AMU from the curtailment of autonomy, principles of decentralization and democratic functioning by constituting various committees to look into uniform administration of the Central Universities of India.

Key words: Autonomy; Pathan Committee; Central University; AMU; Minority Educational Institution; Fundamental Rights

Introduction:

To fulfill the dream of a multi-cultural society and the advancement of minority communities the autonomy has been introduced and applied in the educational institutions of the country. In case of AMU during the British rule autonomy was exercised through the use of 'self administration' of the university by Muslims. At the time of establishment of the University, the Government kept the condition of raising a corpus of fund of Rs 30, 00,000 (thirty lakhs) to allow the Muslims to set up university at Aligarh as the statement shows "Long negotiations took place between the Association and the Government of India, which eventually resulted in the establishment of the Aligarh University in 1920 by the 1920 Act. It may be mentioned that before that a large sum of money was collected by the Association for the University as the Government of India had made it a condition that rupees thirty lakhs must be collected for the university before it could be established" ¹. This provision of thirty lakhs remained even a condition after independence. The Aligarh Muslim University (Amendment) Act, 1951 which states that "The University shall invest and keep invested in securities in which trust funds may be invested in accordance with the law for the time being in force relating to trusts in India† a sum of thirty lakhs of rupees and a permanent endowment to meet the recurring charges of the University other than charges in respect of Fellowships, Scholarships, Prizes and Rewards" ². This sort was condition was not laid down by the government for establishing the University during the British rule. It is believed that at that time this sort of condition was laid down to either hamper the establishment of university by the Muslims independently or for the grant of the autonomy(right to administer independently) to the university.

In post independence era the 'self- administration' was turned into autonomy by the government which with passage

of time had been started to curtailing from AMU through various amendments like Amendment Act 1951, 1968, 1981 and Courts Order of 2005, 2006 etc. The government even confused the process of exercising of autonomy by inserting numerous clauses in the Act of university. The Amendment Act, 1981 of the university made university responsible “to promote specially educational and cultural advancement of the Muslims of India”³. Other hand the Courts have been making them invalid or stayed from use by the university’s exclusive power given AMU to make the constitutional obligation for minority strong or not is a matter of decision of the court. While the constitution of India states in article 30(1) that “All minorities, whether based on religion or language, shall have the right to establish and administer educational institutions of their choice”⁴.

Being the leading centre of education for Indian Muslims, AMU has been given some exclusive powers regarding the responsibility of looking for various aspects of educating Indian Muslims .The University Act 1920 under 5(2)a, gives power “to promote oriental and Islamic studies and give instruction in Muslim Theology and religion to impart to moral and physical training”⁵.

In the light of these sections the Act AMU could exercise extra power vested to her if she works for the Indian Muslims. Otherwise, the university has not any right to use those powers which she uses under 5 (2) a, b, c.

Problems in regard to duality of Approaches about Autonomy:

In AMU there are one section which disapproves the responsibility of educating Indian Muslims while approves the powers associated with responsibility of educating Indian Muslims. Why there is duality in their approaches? Why the government trying to snatch ‘autonomy on the one hand and

gives exclusive powers to AMU on another hand? What are the reasons behind the curtailing autonomy? Are the main bodies of university incapable to run the university? What are the responses of the government, Court and people towards the decision making bodies of the University? Are the decisions making bodies of AMU independent? Have they final say in making programmes and policies of the university?

The educational autonomy is considered important for the educational advancement of the institution. It is believed that autonomy gives freedom to the planners, administrators, educators etc to nurture the innovation and creativity. The Report of the committee constituted to evolve a comprehensive Policy for Autonomy of Central Educational Institution (2010) defined 'autonomy' as "autonomy broadly emphasizes the freedom to function to achieve academic excellence and to administer the institution through its own rules and regulations"⁶.

In case of AMU, the freedom to achieve excellence through own rules and regulations is deteriorating due to lack of proper functioning of the bodies like the Court, the Executive Council, the Academic Council etc. It has been observed that most of the cases are first decided by the higher authorities and reported to the bodies later.

The directives of agencies of higher education are also a bottleneck in the exercise of autonomy by higher educational institutions. In case of AMU, the application of autonomy has been restrained when it comes to 5(2) c which gives responsibility for educational advancement of Indian Muslims. The government policies and judicial system make the function of autonomy impossible. The running of AMU between High Court and Supreme Court for numerous sections of her Act which safeguards autonomy .An example could show the meaning of grant of autonomy when court ordered "Sections 2 (l) and 5 (2) (c) introduced in the Aligarh Muslim University Act of 1920 by the said 1981 Amendment Act are invalid and those

insertions are struck out”⁷.

There are certain areas where the rule of law would be applicable without any questions as directed by Indian constitution, agencies of higher education, university statutes, ordinance etc. But in some other areas, the autonomy is function of the bodies of university granted by the government for special purposes. In such cases the power of autonomy should be allowed to be exercised by the bodies of the university like Executive Council, Academic Council, Court etc. Otherwise what are the uses of so called these governing bodies and what the purposes of sections of 5(2) or other sections related to educating Indian Muslims? The constant interfering in the matter related to power and functions of the governing bodies mean interfering in the functioning of ‘autonomy’ of the university. The more and more these bodies would active and conducive, the more and more the autonomy would be strong and aims and objectives of the institutions would be achieved.

What should be done?

To make the autonomy fully exercised, there is need to make decision making bodies strong by updating their members, frequent calling of the meeting of the bodies to consult on important matters, receiving the learned suggestions from the office bearers of the bodies. The Report of the committee constituted to evolve a comprehensive policy for autonomy of central educational Institution (2010) states in ‘Regulatory Compliance’ that “Given the policy of ensuring the autonomy of CEIs it is imperative for the governance system of universities to have a final say in the matter of framing the statutes of the institutions in consonance with the Act”⁸.

In recent decades it has been observed the decline of autonomy from deliberate attempts by the heads of the institutions. The heads of institutions instead of promoting democratic spirit of debate and discussion, are promoting the

culture of autocratic functioning. They use to bypass the power and function of the bodies of University by using their special powers. In case of AMU, the numbers of use of 19(3) c can give an idea that how democratic functioning going on? Even in the case of delegating of the power of higher authority has been used which was turned down by the Honourable Supreme Court of India. The headline of Times of India is enough to understand the functioning of the university when it wrote "Government's adventure brings AMU to crossroads"⁹.

There is need to allow the governing bodies of university to function on the democratic principles. Accountability of each governing bodies should be fixed associated to higher education. Any attempt to make these bodies weak, would mean to make the autonomy of the university granted under constitution and Act to weak the governing bodies and administrators of the university should be made accountable as the report of the committee constituted to evolve a comprehensive policy for autonomy of central educational Institution states "Autonomy of an institution of higher learning cannot be and should not be delinked from its accountability. An institution is accountable to the society, to the students, and to the constitution of the country"¹⁰.

Autonomy should be used to promote the interest of the university by implementing programmes and policies on time, appointing the best human resources by relaxing the norms (if applicable). It should be used to promote the educational interest of the community for which it had been established. The operational zing of centers of Mallapuram, Murshidabad, and Kishangunj is an example of using autonomy for the betterment of the community and nation. By using the same power of autonomy, these centers could be developed into independent minority universities.

The fear of losing AMU as nerve of the community is baseless. AMU has special place in the hearts of Indian Muslims. No other Universities can replace AMU as most of the

minority universities established or lead from front by Alig whether it is Jamia Millia Islamia (JMI)* or Jamia Hamdard University(JHU)** or Maulana Azad National University (MANU)*** 1

Autonomy in New Perspectives

In recent time, the autonomy has been linked with the academic excellence. The report of the committee constituted to evolve a comprehensive policy for autonomy of central educational Institution states that “Autonomy is something to continually earned and deserved. In the case of universities, autonomy is partly conferred by statutes and partly earned by academic performance”¹¹. The committee has brought two important ways to get autonomy. In one way autonomy is conferred by statues as a legal obligation of the government towards the educational institution while in another way autonomy is earned working excellently by the educational institutions like IITS and IIMs etc.

For future course of action, the autonomy has been related with the academic performance which the committee states as “good performance is itself a guarantor of autonomy of higher education institutions”¹².

In case of AMU, there are many guarantors of autonomy. One such important guarantor which confers autonomy is sections under 5(2). Another is academic

*JMI was established by a group of AMU students like Maulana Mohammad Ali Jauhar, Shuakat Ali, Hakeem Ajmal Khan, Dr Zakir Hussein Khan etc in 1920 during Khilafat and Non-Cooperation Movement started by Mahatma Gandhi.

**JHU was established in 1989 by Syed Hamid, an Alig and ex Vice-chancellor of AMU

***MANU was established by an Act of Parliament in 1998. The first Vice-chancellor was Prof Shamim Jairajpuri an Alig, played very important role in operational zing of the university.

excellence. Without meeting the responsibility of educating Indian Muslims under section 5(2)c and 12(1), AMU cannot claim autonomy and any other special status. The opening of centers in different parts of the country is legal obligation of AMU to save and use of her special status and autonomy. The government cannot escape from her responsibility too. The government has to end the duality related to AMU. One hand it gives power under 5(2) c, and 12(1) to AMU and another hand allow the agencies of higher education to curtail her autonomy through directives, uniform legislation and administration. The government has responsibility to provide all sorts of facilities which help AMU to meet the given responsibility. The constitution of Pathan Committee for single bill for uniform administration of all the universities is contradictory to the responsibilities given to AMU.

AMU should amend the certain sections of Act 1920 which are contradictory in achieving her objectives and responsibilities under 5(2) and 12(1) like the provision which limits the opening of educational institution outside of 25 km or 15 miles from the radius of Jama Mosque. The Act states that “The University shall, subject to the statutes have power to establish and maintain schools within radius of fifteen miles from the university Mosque.”¹³

In case of academic excellence, for the last few years AMU has moved ahead in term of research, innovation, international collaboration in academics. As per India Today ranking of the Universities AMU stands on “5th position”¹⁴ in 2012. AMU stands third University in term of publication of research paper in India. Much has been achieved in games and sports, infrastructure, examination system. But still lot has to do. The problem of security, the presenting negative image by local media (Hindi), shortage of teachers, and lack of use of technology in the teaching and learning and carelessness attitude of the students in the campus are needed to be sort out for better academic performances.

Better academic performance is also needed for ensuring financial autonomy. The policy of UGC to consider the academic performance by NAAC in financing for various projects of the university is matter of concern. The NAAC does not have required autonomy for assigned task of assessment and accreditation. The UGC sees the administrative aspect of the University while NAAC sees the academic performance by assessing and accrediting the institution and both are working under Ministry of Human Resource and Development. In this case how the assessment and accreditation would be done professionally? Would autonomy of university be protected and earned under such a system?

There is need that the universities in general and AMU in particular demanded for complete autonomy of NAAC.

Every university has been established for achieving certain aims and objectives whether these objectives were related to socialization or education or politics or acculturation. In India some universities have been founded to fulfill the constitutional obligation like arranging education for SC, ST, and OBC through reservation or for setting an academic standard like IITs, IIMs or for the purpose of profits like Private universities. The government universities have to meet the social and constitutional obligation by adopting the policy of mass education with reservation. While private higher educational institutions have nothing to do with social and constitutional obligation. They have to see the demand of the market and industries. So there is no rationality in comparing the standard in term of ranking of private higher educational institutions with government higher educational institutions by the agencies of higher education. AMU should look own autonomy in term of 5(2), 12(1) and academic performance before applying for ranking in comparison with other universities. It is aims and objectives which should be made criteria for financial grant not the ranking based on equal parameter for all. If it is necessary then ranking of the

government and non-government educational institutions should be separately.

Without complete separation of NAAC from UGC and autonomy, there would be doubt about the ranking of NAAC. How the same institution with two branches would award ranking and accept the same in granting extra benefits to educational institutions? .Are these sort of exercise would be acceptable to the educationists who believe in educational freedom?

Major Concern:

The trend of ranking is new to Indian educational institutions. This trend of ranking has been adopted from the Western countries. But has the concerned authority of ranking adopted the same methodology, procedure, parameter etc as are using in the western countries? Are the aims and objectives of the educational institutions same in India? Are the western countries follow the policies of 'positive discrimination' in their education system? In America, most of the assessment and accrediting institutions are free from the government control and works professionally.

There is need to check the misuse of 'autonomy' in the university. Due to nepotism and corruption guidelines given by the UGC for academic excellences are deliberately ignored in the name of autonomy. These also undermine the rule of law and quality of education. In an advertisement related to appointment of the Principals of AMU university schools on serial no 17 and 18dated 04-02-2014, the aggregate percentage needed for the applicants in boys school was 45 percent while in the another wing (girls) of the same school it was 50 percent.

AMU response to the government policy of brining uniform system of administration in all the central universities is negative. when the government tried to hold an All India Entrance Test for Medical and Engineering for the country the

present administration under Lt. General (Retrd) Zamiruddin Shah opted to not be the part of that entrance tests process by exercising the power of autonomy vested to the university through concerned bodies. Further the Vice-chancellor put on hold the cooperation with Pathan committee constituted in 2013*. The purpose of the Pathan committee has been stated as “to prepare a single bill for administration of all the central universities”¹⁵.

²The constitution of Pathan committee is seen by the higher authority of the university against the very purpose of the university for which its was established and the government assigned the responsibilities of educating Indian Muslims. The administration considered it as a threat to the autonomy of the institution. The Vice-chancellor has been stated by Indian Express as “Shah rejected inclusion of AMU in any such set-up and said it was outside the purview of the Pathan committee. At the meeting, Shah claimed that AMU has a distinct minority character and has been established by an Act of Parliament and thus cannot be governed by any such unified system”¹⁶. The Pathan committee is considered as an attack on the autonomy of the university in general and minority character in particular. AMU being a responsible university for the educational advancement of the Indian Muslims cannot accept the uniform system of working of all the universities. After Report of Sachar Committee (2006), the responsibilities of university have been increased much more. The Sachar committee states about the condition of Indian Muslims in these words “The resistance to recognize minority educational institutions has been a matter of serious concern with the Community in several states. This is also a clear violation of Article 30 of the Indian Constitution. Several people

*The Government of India, Ministry of Human Resource Development constituted this committee to prepare a single Bill for administration of all the central Universities in 2013.

alleged that they face severe difficulties in setting up minority educational institutions”¹⁷.

The Pathan committee is also a matter of concern for those who believe in the cultural and educational rights of the citizen of India granted under fundamental rights of the constitution. India being a multi-cultural and secular country acknowledges the right of the management of the universities for the fulfillment of constitutional obligation of various communities. There are various areas like finance, admission, appointment, quality and quantity which the UGC, NAAC, HRD or Government could not bring uniformity. Each university has own aims and objectives. Some universities are working for the education of minorities like AMU .whiles other universities working for the quantity or quality education. In each case, the requirement of finance, admission, appointment and planning and policies would be different from each other. How the bodies of higher education like UGC, NAAC, HRD, etc could bring uniformity in the working of the administration without sacrificing the interest of the educational institutions for which they had been established?

By analyzing the aims and objectives of the Pathan committee, it seems that the only motive is the centralization of the powers and functions of the universities by limiting their autonomy and process of ‘decentralization’.

India is a democratic country. The model and pattern of the working of every system of democracy is based on power sharing and accountability. The decentralization is not an option but a necessity of the country for balance development of the community, society, region and country. The decentralization of educational planning, policies, financing are important steps towards meeting the aims of balanced development.

With the maturation of democracy, on the demand of the people the country has opted for the decentralize model of functioning in decade of 1980.The concept of decentralization

was introduced on wider scale in education system too. At grass root level the education system was restructured with the help of local self-government. The three tier systems of local government have been given many powers in the education system. Gram panchayat, Panchayat Samiti and Zila Parishad were given powers from planning, preparing curriculum to execute the plans with financial freedom. The Right to Education Act, 2009 further strengthened the local government's role with more powers in the decentralization of education at grass root level. In the light of this trend at grassroots level one can question that how at upper level the Idea of two democratic principles would be neglected and deliberately attacked by constituting Pathan committee? Are democratic principles for lower level not fit for higher level? What are the reasons for implementing these discriminative trends in a democratic, multi-cultural, multi-religious, multi-linguistic country?

India is a federal country. In Federal country the education should not be centralized otherwise the meaning of Federation would loss the purposes. In federal country, the various units of administration have own value. In India the system of education comes under concurrent list of governance. The constitution states education in concurrent list as "2[25. Education, including technical education, medical education and universities, subject to the provisions of entries 63, 64, 65 and 66 of List I; vocational and technical training of labour.]"¹⁸. As a result the management of the state universities has been given autonomous powers with central universities for balance development of the education. Now why there is need to limit the functioning of federal system in education?

America is the best example of Federal system both in political and educational terms. The freedom of education to each states of federation is fine example of decentralization and autonomy of education. In matter of accerdedation and assessment there is very much professionalism on the part of

faculty members and more autonomy to the institution. There are some reasons that in the Time Higher Education ranking for 2013-14, American universities have begged the top 20 positions among the universities of the world. Is it possible in the country which follows 'positive discrimination' in the education? Is it possible where constitution has given safeguard under the fundamental rights to the educational institutions of the various communities of the country? Is it not a deliberate attempt to create chaos in education system of the country?

There is need to check the working of the autonomy of central educational institution not to curtail and snatch away from them through process of centralization in the name of quality and betterment on the basis of ranking.

Conclusion:

India is a multi-culture, multi-religious, multi-linguistic, and multi-regional country. Each section has own model of development based on education which has been recognized by the constitution through use of "autonomy" and "decentralization" in democratic set up.

Constitution Pathan committee for bringing uniform system of administration in all the central universities is a deliberate attempt to ignore the constitutional obligation, democratic principles and norms and demand of a multi cultural society.

AMU being the leading institution of Indian Muslims along with other minority's institution would be affected by the constitution of Pathan committee. Many committees have seen the functioning of the "autonomy" in different perspectives. On the basis of study of various aspects of the recommendation of the committee regarding autonomy of CEIs, constitutional obligation and democratic principles, the constitution of Pathan committee is seen by many as a deliberate attack on given autonomy to CEIs in general and AMU is particular. The

Pathan committee is also seen to derail the CEIs from their aims and objectives for which AMU and other educational institutions had been founded.

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