The anomaly with minority institutions

Why in news?

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The central government has decided to differ with NCMEI order on the minority institution status to Jamia Millia Islamia (JMI).

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What is the case?

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- The Jamia University was established under the JMI Act by Muslim nationalist leaders in 1920 at Aligarh to boycott all educational institutions supported or run by the colonial regime.
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- It was eventually shifted to Delhi and later in 1988, got the status of central university through a central law.
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- Until 2011, the university was following the central government’s reservation rules for admitting students of SC/ST and OBC background.
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- National Commission for Minority Educational Institutions, in 2011, had said that “Jamia was founded by the Muslims for the benefit of Muslims and it never lost its identity as a Muslim minority educational institution”.
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- This freed the institution of its reservation obligations and it started reserving 50 per cent of its for Muslim candidates.
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- The present HRD Ministry has decided to file a fresh affidavit in the case differing with NCMEI's order.
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What is the rationale?

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- The HRD Ministry argues that JMI was never intended to be a minority institution as it was set up by an Act of Parliament, and is funded by the central government.
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- It refers to an earlier apex court's order that AMU(Aligarh Muslim University) was not a minority university as it had been set up by the British legislature and not by the Muslim community.
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- The heart of the dispute lies in Article 30 (1) of the constitution that gives religious and linguistic minorities the right to establish and administer educational institutions of their choice.
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- The varying interpretation to the article - an anti-discriminatory and **protective clause** (or) as something which confers **special privileges** and a greater degree of autonomy - complicates the issue.
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What are the concerns in this regard?

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- As most cases involving minority institutions become **political**, even strict legal positions sometimes get complicated.
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- In the case of JMI, the NCMEI's 2011 order impacted the OBC **reservation policy** for admissions, which had a series of consequences.
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- Also, the **special rights** conferred to certain groups are seen to be conflicting with the fundamental principle of **equality**.
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- As education is a high-stakes game, the autonomy enjoyed by the minority institutions is envied by many non-minority institutions.
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- More and more groups within states want to come under the ambit of minority institutions to **claim these privileges** which is leading to disputes.
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- Moreover, the question of whether a group could claim minority status in a state despite being a majority in that state is still unanswered by the courts.
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- Also, the **differential burden of regulation** on different institutions depending on the private universities acts is another point of contention.
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What should be done?

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- There is a prevalence of over regulation and a projected sectarianism in state policy.
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- Clarifying the broader regulatory regime and specifying clearly the rights of non-minorities to set up and administer an educational institution of their choice would help.
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- Minority status can be decided with reference to the state instead of considering nationally.
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- The AMU and Jamia cases could be decided on the statutes that govern them.
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- But the larger communal character of this debate can be settled only by addressing the question of freedom to run educational institutions.
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Source: Indian Express

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