

COMMENT

## STIRRING UP A HORNET'S NEST

A RECENT RULING BY JUSTICE S N Srivastava of the Allahabad High Court declaring that Muslims in Uttar Pradesh could no longer be considered a minority, has, predictably, stirred up a hornet's nest. Although the ruling was stayed by a two-member bench of the same court the next day, it raised crucial questions that pertain to minority rights, secularism and democracy and the impartiality of the judiciary.

Muslim leaders were aghast and indignant at the ruling. Hamid Ansari, Chairman of the National Minorities Commission, critiqued the judgement as 'absurd', and pointed out that the illogicality of the ruling is evident from the fact that the same High Court put a stay on it the next day. As Zafarul Islam Khan, editor of the New Delhi-based *Mili Gazette*, India's leading Muslim paper in English, put it, 'it is a very disturbing aspect of the current judicial activism that a single judge of a lower court can go against the judgment of a much larger bench of the Supreme Court'.

Logically, the ruling, as critics have pointed out, is deeply flawed. Firstly, it is for the government, rather than the courts, to decide which community can be officially considered as a minority. Secondly, the case that the judge was hearing did not require him to pass judgment on whether or not Muslims in Uttar Pradesh could be considered a minority. Thirdly, the judge has clearly got his mathematics wrong. Muslims, according to the most recent Census, form less than a fifth of Uttar Pradesh's population. A clear numerical minority in the state, Muslims are also a minority in the sense of being a marginalized community vis-à-vis the dominant caste Hindus, lagging considerably behind them on almost all social indicators. Hence, there is no merit in the ruling that Muslims in Uttar Pradesh can no longer be considered a minority.

Some critics have argued that the controversial ruling reflects the right-wing Hindutva worldview, in which minorities are denied any separate identity of their own. This, in turn, is part of the Hindutva agenda of absorbing Indian Muslims into the amorphous Hindu fold. That the ruling plays directly into the hands of the Hindutva lobby, which has warmly welcomed the pronouncement, is obvious. Hamid Ansari of the National Minorities Commission argues that Hindutva forces have consistently denied the fact of Muslim deprivation, fiercely opposed minority rights and have condemned any measure on the part of the state for the amelioration of the pathetic conditions of the Muslims as unwarranted 'minority appeasement'. He opines that the ruling must be seen in the light of the fact that following the recent release of the Sachar Commission report that investigated the conditions of Muslims in India, there is much talk about the high levels of deprivation that Muslims suffer in large parts of the country. The report led to demands by Muslim organizations for urgent steps to be taken by the state to make special provision for the educational and economic empowerment of Muslims. 'In response to this', Ansari says, 'Hindutva forces are now trying to confuse the whole debate engendered by the Sachar Commission report by bringing in specious arguments about who should be considered a minority.'

In other words, if Muslims were not to be considered as a minority by the state, the recommendations of the Sachar Commission report would be scuttled and the limited state-funded schemes for Muslim welfare might be ended forthwith. The rights of Muslims as a minority, too, would be seriously curtailed. Says Syed Qasim Rasul Ilyas, member of the governing council of the All-India Muslim Personal Law Board : 'If Muslims are not treated as minorities, their right as minorities to run educational institutions of their own choice would be denied'.

If today Muslims are sought to be denied their rights as minorities through such controversial rulings, it could soon be the turn of other marginalized communities, such as Dalits, Adivasis and Other Backward Classes. □□□