



## CHAPTER 1

# Introduction

### 1.1 OVERVIEW

“Education is the single most important instrument for social and economic transformation. A well educated population, adequately equipped with knowledge and skill is not only essential to support economic growth but is also a precondition for growth to be inclusive, since it is the educated and skilled person who can stand to benefit most from the employment opportunities which growth will provide.” (Para 10.1 of ‘An approach to the Twelfth Five year Plan’). The Ministry of Education is focussing on an inclusive agenda, with a vision of realizing India’s human resource potential to its fullest with equity and excellence. Government is committed to address the backwardness in education of all minorities.

Constitution of India has afforded protection to the minorities in the country. In pluralistic society rights of minorities and weaker sections need to be safeguarded. The idea of giving some special rights to the minorities is not to treat them as privileged section of the population but to give a sense of security to such communities. Special rights for minorities were designed not to create inequalities but to bring about equality by ensuring preservation of the minority institutions and by guaranteeing autonomy in the matter of administration of these institutions. In India, safeguards for minorities are provided in the constitution of India in the form of fundamental rights. The Constitution provides a very formal and water tight arrangement for safeguarding the interest of minorities.

Article 30: Right of minorities to establish and administer educational institutions.-

(1) All minorities, whether based on religion or language, shall have the right to establish and administer educational institutions of their choice.

[1A) In making any law providing for the compulsory acquisition of any property of any educational institution established and administered by a minority, referred to in clause (1), the State shall ensure that the amount fixed by or determined under such law for the acquisition of such property is such as would not restrict or abrogate the right guaranteed under that clause.]

(2) The State shall not, in granting aid to educational institutions, discriminate against any educational institution on the ground that it is under the management of a minority, whether based on religion or language.

The Central Government has notified six minority communities (MCs) viz. Muslim, Christian, Sikh, Buddhist, Jain and Parsi.

As per 2011 Census, the percentage and population of from different communities including minority communities are:

- Hindus : 79.8% (966.3 million)
- Muslims : 14.23% (172.2 million)
- Christians : 2.30% (28.7 million)
- Sikhs : 1.72% (20.8 million)



person on its behalf into complaints regarding deprivation or violation of rights of minorities to establish and administer educational institutions of their choice and any dispute relating to affiliation to a University and report its finding to the appropriate Government for its implementation.

- (c) Intervene in any proceeding involving any deprivation or violation of the educational rights of the minorities before a court with the leave of such court.
- (d) Review the safeguards provided by or under the Constitution, or any law for the time being in force, for the protection of educational rights of the minorities and recommend measures for their effective implementation.
- (e) Specify measures to promote and preserve the minority status and character of institutions of their choice established by minorities.
- (f) Decide all questions relating to the status of any institution as a MEI and declare its status as such.
- (g) Make recommendations to the appropriate Government for the effective, implementation of programmes and schemes relating to the MEI and
- (h) Do such other acts and things as may be necessary, incidental or conducive to the attainment of all or any of the objects of the Commission.

### **1.5 NCMEI (Amendment) Act, 2006:**

For effective functioning of the Commission, recommendations were made to the Government to carry out amendments in the Act. The Government introduced the National Commission for Minority Educational Institutions (Amendment) Bill 2005 in the Parliament. However, in the wake of 93<sup>rd</sup> amendment of the Constitution which added clause (5) in Article 15 it became expedient to carry out the amendments in the NCMEI Act through an Ordinance. Accordingly an Ordinance was notified by the Government on 23<sup>rd</sup> January, 2006 which was replaced by the National Commission for Minority Educational Institutions (Amendment) Act, 2006 and notified on 29<sup>th</sup> March, 2006.

### **1.6 NCMEI (Amendment) Act 2010:**

Besides others, the major change in the NCMEI Amendment Act, 2010 was amendment in Section 10(1) of the Act, which states that "Subject to the provisions contained in any other law for the time being in force, any person, who desires to establish a Minority Educational Institution may apply to the competent authority for the grant of No Objection Certificate for the said purpose." To broad base Commission's representation, Section 3 (2) of the Act was amended by making provision for an additional Member in the Commission.



## CHAPTER 2

# Constitution of the Commission

### 2.1 COMPOSITION OF THE COMMISSION & OTHER STAFF

The Commission is headed by a Chairperson and there are three members who are nominated by the Central Government.

The Government issued notification on 26<sup>th</sup> November 2004 for the appointment of Justice M.S.A. Siddiqui as the first Chairperson of the Commission for a period of 5 years. His term as Chairman was extended for another five years in 2009. Dr. Mohinder Singh and Dr. Cyriac Thomas assumed charge as Members on 8<sup>th</sup> April 2010 and 12<sup>th</sup> April 2010 respectively for a term of five years. Shri Zafar Agha the 3<sup>rd</sup> Member assumed charge on 26<sup>th</sup> March 2012.

On 30<sup>th</sup> September 2014, Dr. Mohinder Singh, Member submitted resignation on personal grounds and in his place Dr. Naheed Abidi, (Padma Shri) was appointed as a Member for the remaining duration of the tenure i.e. upto 7<sup>th</sup> April 2015. Dr. Cyriac Thomas tenure came to an end on 11<sup>th</sup> April 2015.

Dr. Baltej Singh Mann completed his five year term on 3<sup>rd</sup> December, 2020 and Dr. Naheed Abidi completed her second term on 6<sup>th</sup> December, 2020.

Justice Narendra Kumar Jain assumed charge as Chairperson on 1<sup>st</sup> October 2018. Dr. Jaspal Singh joined on 15<sup>th</sup> June 2018, as Member of the Commission.

The Commission started functioning from Shastri Bhavan, New Delhi and shifted to

Jeevan Tara Building, Patel Chowk, New Delhi in August 2005. In 2004, 22 posts were sanctioned initially for carrying out necessary administrative work and providing office support. In 2005 and 2006, additional one and 10 posts were sanctioned respectively. The Commission has a total strength of 33 including one post each of Secretary, Deputy Secretary, Sr. PPS, Under Secretary and Section Officer.

At present the post of Secretary, Deputy Secretary, Under Secretary and one MTS have been filled on deputation. Services of the supporting staff have been outsourced through EdCIL (an undertaking of Government of India, Ministry of Education).

### 2.2. POWERS OF THE COMMISSION:

The powers of the Commission as enshrined in Section 12 are:

- 1) If any dispute arises between a MEI and a University relating to its affiliation to such University, the decision of the Commission thereon shall be final.
- (2) The Commission shall, for the purposes of discharging its functions under this Act, have all the powers of a civil court trying a suit and in particular, in respect of the following matters, namely:
  - (a) summoning and enforcing the attendance of any person from any part of India and examining him on oath,

- (b) requiring the discovery and production of any document,
  - (c) receiving evidence on affidavits,
  - (d) subject to the provisions of sections 123 and 124 of the Indian Evidence Act, 1872, (1 of 1872) requisitioning any public record or document or copy of such record or document from any office,
  - (e) issuing summons for the examination of witnesses or documents, and
  - (f) any other matter which may be prescribed.
- (3) Every proceeding before the Commission shall be deemed to be a judicial proceeding within the meaning of Sections 193 and 228 and for the purpose of Section 196 of the Indian Penal Code (45 of 1860). The Commission shall be deemed to be a civil court for the purposes of section 195 and Chapter XXVI of the Code of Criminal Procedure, 1973 (2 of 1974).

### **2.2.1. APPEAL AGAINST THE ORDERS OF THE COMPETENT AUTHORITY:**

As enshrined in Section 12-A of the Commission:

- (1) Any person aggrieved by the order of refusal to grant NOC under sub-section (2) of section 10 by the Competent Authority for establishing a MEI, may prefer an appeal against such order to the Commission.
- (2) An appeal under sub-section (1) shall

be filed within thirty days from the date of the order referred to in sub-section (1) communicated to the applicant.

Provided that the Commission may entertain an appeal after the expiry of the said period of thirty days, if it is satisfied that there was sufficient cause for not filing it within that period.

- (3) An appeal to the Commission shall be made in such form as may be prescribed and shall be accompanied by a copy of the order against which the appeal has been filed.
- (4) The Commission, after hearing the parties, shall pass an order as soon as may be practicable, and give such directions as may be necessary or expedient to give effect to its orders or to prevent abuse of its process or to secure the ends of justice.
- (5) An order made by the Commission under sub-section (4) shall be executable by the Commission as a decree of a civil court and the provisions of the Code of Civil Procedure, 1908 (5 of 1908), so far as may be, shall apply as they apply in respect of a decree of a civil court.

### **2.2.2. POWER OF COMMISSION TO DECIDE ON THE MINORITY STATUS OF AN EDUCATIONAL INSTITUTION.**

The powers to decide on the Minority Status of a MEI have been enshrined in Section 12 B of the Act. The powers are given as under:

- (1) Without prejudice to the provisions contained in the National Commission for Minorities Act, 1992 (19 of 1992),



where an authority established by the Central Government or any State Government, as the case may be, for grant of minority status to any educational institution rejects the application for the grant of such status, the aggrieved person may appeal against such order of the authority to the Commission.

- (2) An appeal under sub-section (1) shall be preferred within thirty days from the date of the order communicated to the applicant: Provided that the Commission may entertain an appeal after the expiry of the said period of thirty days, if it is satisfied that there was sufficient cause for not filing it within that period.
- (3) An appeal to the Commission shall be made in such form as may be prescribed and shall be accompanied by a copy of the order against which the appeal has been filed.
- (4) On receipt of the appeal under sub-section (3), the Commission may, after giving the parties to the appeal an opportunity of being heard, decide on the minority status of the educational institution and shall proceed to give such direction as it may deem fit and, all such directions shall be binding on the parties.

### **2.2.3: POWER TO CANCEL MINORITY STATUS:**

Section-12C of the NCMEI Act 2004 deals with the Power to Cancel the Main Status Certificate. The Commission may, after giving a reasonable opportunity of being heard to an MEI to which minority status has been granted by an authority or Commission, as the case maybe, cancel such status under the follow-

ing circumstances, namely:

- (a) if the constitution, aims and objects of the educational institution, which has enabled it to obtain minority status has subsequently been amended in such a way that it no longer reflects the purpose or character of a MEI,
- (b) if, on verification of the records during the inspection or investigation, it is found that the MEI has failed to admit students belonging to the minority community in the institution as per rules and prescribed percentage governing admissions during any academic year.

### **2.2.4: POWER OF COMMISSION TO INVESTIGATE MATTERS RELATING TO DEPRIVATION OF EDUCATIONAL RIGHTS OF MINORITIES:**

The power to investigate matters relating to deprivation of educational rights of minorities is covered under Section 12-D of the Act.

- (1) The Commission shall have the power to investigate into the complaints relating to deprivation of the educational rights of minorities.
- (2) The Commission may, for the purpose of conducting any investigation pertaining to a complaint under this Act, utilize the services of any officer of the Central Government or any State Government with the concurrence of the Central Government or the State Government, as the case may be.

(3) For the purpose of investigation under sub-section (1), the officer whose services are utilized may, subject to the direction and control of the Commission,

(a) summon and enforce the attendance of any person and examine him;

(b) require the discovery and production of any document; and

(c) requisition any public record or copy thereof from any office.

(4) The officer whose services are utilized under sub-section (2) shall investigate into any matter entrusted to it by the Commission and submit a report thereon to it within such period as may be specified by the Commission in this behalf.

(5) The Commission shall satisfy itself about the correctness of the facts stated and the conclusion, if any, arrived at in the report submitted to it under sub-section (4) and for this purpose the Commission may make such further inquiry as it may think fit.

### **2.2.5. POWER OF COMMISSION TO CALL FOR INFORMATION:**

The power is proviso in Section 12-E of the Act and stipulates that:

(1) The Commission, while enquiring into the complaints of violation or deprivation of educational rights of minorities shall call for information or report from the Central Government or any State Government or any other authority or organization subordinate

thereto, within such time as may be specified by it:

Provided that:

(a) if the information or report is not received within the time stipulated by the Commission, it may proceed to inquire into the complaint;

(b) if, on receipt of information or report, the Commission is satisfied either that no further inquiry is required, or that the required action has been initiated or taken by the concerned Government or authority, it may not proceed with the complaint and inform the complainant accordingly.

(2) Where the inquiry establishes violation or deprivation of the educational rights of the minorities by a public servant, the Commission may recommend to the concerned Government or authority, the initiation of disciplinary proceedings or such other action against the concerned person or persons as may be deemed fit.

(3) The Commission shall send a copy of the inquiry report, together with its recommendations to the concerned Government or authority and the concerned Government authority shall, within a period of one month, or such further time as the Commission may allow, forward its comments on the report, including the action taken, or proposed to be taken thereon, to the Commission.

(4) The Commission shall publish its in-



quiry report and the action taken or proposed to be taken by the concerned Government or authority on the recommendations of the Commission.

### **2.2.6 BAR OF JURISDICTION:**

As enshrined in Section 12F, of the NCMEI Act 2004, no court (except the Supreme Court and a High Court exercising jurisdiction under articles 226 and 227 of the Constitution) shall entertain any suit, application or other proceedings in respect of any order made under this Chapter.

## **2.3. FINANCE, ACCOUNTS AND AUDIT:**

### **2.3.1. GRANTS BY CENTRAL GOVERNMENT:**

- (1) The Central Government shall, after due appropriation made by the Parliament by law, provide grants to the Commission such sum of money as the Government may think fit for being utilized for the purposes of this Act.
- (2) The Commission may spend the grant for performing the functions under this Act and such sum shall be treated as an expenditure payable from the grant referred to in sub-section (1).

### **2.3.2. ACCOUNTS AND AUDIT:**

- (1) The Commission shall maintain proper accounts and other relevant records and prepare annual statement of accounts in such a form as may be

prescribed by the Central Government.

- (2) The accounts of the Commission shall be audited by the CAG at such intervals as may be specified by them and any expenditure incurred in connection with such audit shall be payable by the Commission to the CAG.
- (3) The CAG and any person appointed by him in connection with the audit of the accounts of the Commission under this Act shall have the same rights and privileges and the authority in connection with such audit as the CAG generally has in connection with the audit of Government accounts and in particular, shall have the right to demand the production of books, accounts, connected vouchers and other documents and papers and to inspect any of the offices of the Commission.

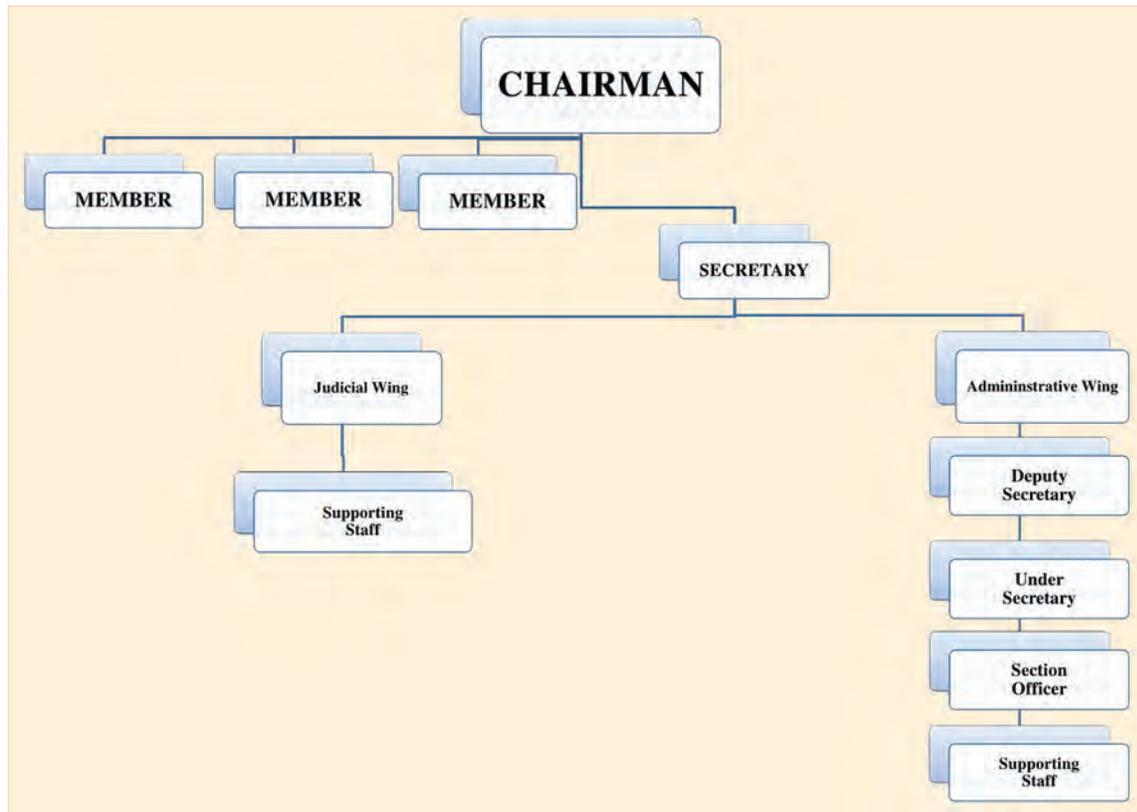
### **2.3.3. ANNUAL REPORT:**

The Commission shall prepare annual report for each financial year with complete details of its activities undertaken during the previous financial year and forward a copy thereof to the Central Government.

### **2.3.4. ANNUAL REPORT AND AUDIT REPORT TO BE LAID BEFORE PARLIAMENT:**

The audit report and the annual report together with the memorandum of action taken on the advice tendered by the Commission under section 11 and the reasons for non-acceptance, if any, of any such advice, to be laid before each House of Parliament by the Central Government.

## Organisation Chart





## CHAPTER 3

# Meetings of the Commission

In terms of Section 12(3) of the NCMEI Act, every proceeding before the Commission is deemed to be a judicial proceeding within the meaning of section 193 and section 228 and for the purpose of section 196 of the Indian Penal Code. The Commission is deemed to be a civil court for the purpose of Section 195 Chapter XXVI of the Code of Criminal Procedure, 1973. Being a quasi-judicial body, the Commission conducts formal court sittings on a day to day basis. The Commission has a formal court room for the purpose.

### 3.1 DUTIES OF THE COMMISSION

The Commission heard the legacy cases and registered fresh petitions as per the cause list and passed orders. The Commission lists requisite number of cases in each sitting, in order to ensure expeditious disposal of the cases and also to minimize backlog. Notices to different parties including show cause notices to applicants are issued as per the direction of the Court. Adequate notice period is given to all parties. In case of fresh petitions, presence of the petitioner or respondent is not necessary in the first hearing date. Notices are issued requiring for their appearance on the second date of hearing.

In case where the petitioners plead for urgency, based on merits the Commission gives an early date. The Commission also takes into consideration the inconvenience expressed by the petitioners/parties to appear on a particular date and accordingly adjournments are granted to enable the petitioners/parties to plead their cases effectively in con-

sonance with the principle of natural justice. Commission has never insisted on engagement of a counsel to represent the petitioner i.e. any petitioner who wants to argue his/her case personally is at liberty to do so.

With a view to expedite disposal of cases no quorum has been fixed by the Commission for the court sittings. Even if only Chairman or one of the Member is present, court proceedings can be conducted and cases taken up for appropriate decision.

The Commission endeavours to provide a cost-free forum to the members of the minority communities for redressal of their grievances pertaining to the educational rights enshrined in the Constitution. The Commission has not prescribed any court fee either for processing and deciding on all questions relating to the status of any institution as a Minority Educational Institutions and declare its status as such or deciding on appeal made by the MEI against the order of the State Governments/UT Administrations on being denied the MSC or NOC. Since a large number of petitioners are not conversant with the procedures of the court, the Commission has even accepted petitions which are not in conformity with the law of pleadings and provides appropriate directions to such petitioners.

### 3.2 THE SITTINGS AND HEARINGS OF THE COMMISSION:

The Court of the Commission decides on the cases pertaining to grant of Minority Status Certificates and also on appeals under

Section 12A and 12B. The Court also decides cases relating to cancelation of MSCs under Section 12C. For the purpose, the Court of Commission has sittings and takes up cases as per the cause list issued by the office of the Commission. Year-wise numbers of sittings of the Court of the Commission are given in figure-3.1.



Fig. 3.1: Year-wise sittings of the Commission since 2007-08

The Commission has had maximum number of sittings in the year 2013-14 (178 sittings) and heard maximum number of cases in the year 2014-15 (5602 cases). The least number of sittings were in 2007-08 (73 sittings). However, the least number of cases were heard during 2020-21 (1731 cases).

The Commission had 88 sittings during 2020-21 as compared to 126 during 2019-20 because the Court of the Commission did not have any sittings from 01/04/2020 to 17/08/2020 due to COVID-19 pandemic.

### 3.3 THE NUMBER OF MSCs GRANTED BY THE COMMISSION SINCE ITS INCEPTION:

The Commission grants Minority Status Certificate (MSC) to the eligible Minority Educational Institutions (MEIs). Total 13579 MSCs

have been granted since the inception of the Commission. Year-wise, number of MSCs granted by the Court of the Commission is given in table 3.1.

Year	Year	Number of MSCs granted
1.	2005-06	48
2.	2006-07	622
3.	2007-08	674
4.	2008-09	397
5.	2009-10	1039
6.	2010-11	1342
7.	2011-12	1854
8.	2012-13	1791
9.	2013-14	1674
10.	2014-15	1372
11.	2015-16	1022
12.	2016-17	1094
13.	2017-18	466
14.	2018-19	158
15.	2019-20	12
16.	2020-21	14
<b>Total</b>		<b>13579</b>

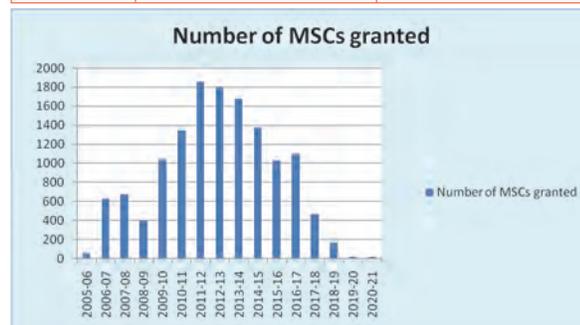


Fig. 3.2.: Year-wise Number of MSCs granted by the Commission



The maximum number of MSCs were granted in the year 2011-12 (1854 MSCs) and least number during 2019-20 (12 MSCs). State/UT-wise, numbers of Minority Status Certificates granted since 2005 upto 31.03.2020 are given in the table 3.2.

S. No.	State	No. of MSCs granted since inception of the Commission till 31/03/2021
1.	Andaman & Nicobar Island	9
2.	Andhra Pradesh	436
3.	Arunachal Pradesh	24
4.	Assam	221
5.	Bihar	148
6.	Chandigarh	20
7.	Chhattisgarh	232
8.	Dadra & Nagar Haveli	4
9.	Daman & Diu	1
10.	Delhi	251
11.	Goa	165
12.	Gujarat	62
13.	Haryana	181
14.	Himachal Pradesh	27
15.	Jharkhand	106
16.	Karnataka	715
17.	Kerala	4687
18.	Madhya Pradesh	526
19.	Maharashtra	199

S. No.	State	No. of MSCs granted since inception of the Commission till 31/03/2021
20.	Manipur	37
21.	Meghalaya	8
22.	Odisha	122
23.	Puduchery	26
24.	Punjab	125
25.	Rajasthan	104
26.	Sikkim	18
27.	Tamil Nadu	971
28.	Telangana	141
29.	Tripura	13
30.	Uttar Pradesh	3181
31.	Uttarakhand	122
32.	West Bengal	697
<b>Total</b>		<b>13579</b>

Table 3.2 State-wise number of MSCs granted by the Commission since 2005-06

The data reveals that maximum number of MSCs have been granted to MEIs from the State of Kerala, followed by Uttar Pradesh, Tamil Nadu, Karnataka, West Bengal and Madhya Pradesh. More than 80% of the total MSCs have been granted to MEIs from these States. No MSC has been issued to MEIs from the State/UT namely Lakshadweep, Mizoram and Nagaland. Year-wise and state-wise data is at Annexure-4.

## CHAPTER 4

# Highlights of the Year

The Commission completed 16 years in November, 2020. Every year the Commission functions as per the mandate provided under the Act and the same is reflected in its Annual Report. The highlights of the Commission's functioning during 2020-21 are given as under:

### 4.1 COURT SITTINGS DURING 2020-21:

Date-wise court sittings and number of cases heard in the financial year 2019-20 are in the table given below:

S. No.	Date	No. of Cases Heard	Cases Dismissed	Remand to the State Competent Authority	Cases withdrawn	MSC Granted	Notices Issued	Cases clarification sought
1.	2-4-2019	43		43				
1.	18-8-2020	17			1		9	
2.	19-8-2020	22		3			11	
3.	20-8-2020	20					14	
4.	25-8-2020	21			1		1	
5.	26-8-2020	20					8	
6.	27-8-2020	20			1		4	
	<b>August Total</b>		<b>120</b>		<b>3</b>		<b>3</b>	<b>47</b>
7.	1-9-2020	20					5	
8.	2-9-2020	20					5	
9.	3-9-2020	20					64	
10.	8-9-2020	20					3	3
11.	9-9-2020	20					3	3
12.	10-9-2020	21				1	3	1
13.	15-9-2020	16					3	2
14.	16-9-2020	15					3	



S. No.	Date	No. of Cases Heard	Cases Dismissed	Remand to the State Competent Authority	Cases withdrawn	MSC Granted	Notices Issued	Cases clarification sought
15.	17-9-2020	16					8	3
16.	22-9-2022	14					4	2
17.	23-9-2020	14						
18.	24-9-2020	16						
19.	29-9-2020	13					8	
20.	30-9-2020	15	1			1 (duplicate MSC)	6	
<b>September Total</b>		<b>240</b>	<b>1</b>			<b>2</b>	<b>57</b>	<b>18</b>
21.	1-10-2020	14	1				4	
22.	6-10-2020	15					5	4
23.	7-10-2020	15					5	4
24.	8-10-2020	17					8	1
25.	13-10-2020	15					5	1
26.	14-10-2020	14			9		2	
27.	15-10-2020	14					6	3
28.	20-10-2020	12			1		6	1
29.	21-10-2020	15	1		1		4	
30.	22-10-2020	19					8	
31.	27-10-2020	18					6	2
32.	28-10-2020	20		2			8	3
33.	29-10-2020	19			1		8	1
<b>October Total</b>		<b>207</b>	<b>2</b>	<b>2</b>	<b>12</b>		<b>75</b>	<b>20</b>
34.	3-11-2020	20					2	



S. No.	Date	No. of Cases Heard	Cases Dismissed	Remand to the State Competent Authority	Cases withdrawn	MSC Granted	Notices Issued	Cases clarification sought
35.	4-11-2020	22					7	1
36.	5-11-2020	21					7	
37.	10-11-2020	22					9	
38.	11-11-2020	20					4	
39.	12-11-2020	20					6	1
40.	17-11-2020	19			1		4	
41.	18-11-2020	21					4	
42.	19-11-2020	21					9	
43.	24-11-2020	22			1		5	2
44.	25-11-2020	21					5	
45.	26-11-2020	23		1			13	1
	<b>November Total</b>	<b>252</b>		<b>1</b>	<b>2</b>		<b>75</b>	<b>5</b>
46.	1-12-2020	21	2				4	7
47.	2-12-2020	20					2	4
48.	3-12-2020	22				2	3	1
49.	8-12-2020	20					2	1
50.	9-12-2020		20				1 (Duplicate MSC)	3
51.	10-12-2020	21				1	6	3
	<b>December Total</b>	<b>124</b>	<b>2</b>			<b>4</b>	<b>20</b>	<b>16</b>
52.	5-1-2021	22					7	1
53.	6-1-2021	21	1				10	1
54.	7-1-2021	19					7	



S. No.	Date	No. of Cases Heard	Cases Dismissed	Remand to the State Competent Authority	Cases withdrawn	MSC Granted	Notices Issued	Cases clarification sought
55.	12-1-2021	22					5	
56.	13-1-2021	23	2				6	
57.	14-1-2021	22					6	5
58.	19-1-2021	22			1		10	1
59.	20-1-2021	26	1	1			10	1
60.	21-1-2021	22		2			7	
61.	27-1-2021	21	3				5	
62.	28-1-2021	23	1				9	
	<b>January Total</b>	<b>243</b>	<b>8</b>	<b>3</b>	<b>1</b>		<b>82</b>	<b>9</b>
63.	2-2-2021	20	2		5		5	
64.	3-2-2021	20					7	7
65.	4-2-2021	21			7		1	
66.	9-2-2021	22	3		6		8	
67.	10-2-2021	28	3				5	
68.	11-2-2021	23	1		1		11	1
69.	16-2-2021	32		4	3		13	
70.	17-2-2021	24	4		2	2	6	
71.	18-2-2021	29	2	4	2	1	7	1
72.	23-2-2021	22	1	1	3		8	
73.	24-2-2021	23		1			8	
74.	25-2-2021	23	1		1		5	
	<b>February Total</b>	<b>287</b>	<b>17</b>	<b>10</b>	<b>30</b>	<b>3</b>	<b>84</b>	<b>9</b>
75.	2-3-2021	20		2			6	

S. No.	Date	No. of Cases Heard	Cases Dismissed	Remand to the State Competent Authority	Cases withdrawn	MSC Granted	Notices Issued	Cases clarification sought
76.	3-3-2021	22	1	1			9	
77.	4-3-2021	17					4	
78.	9-3-2021	19		1	4		6	
79.	10-3-2021	21			3		4	2
80.	11-3-2021	22	1	1	2		10	
81.	16-3-2021	19	1		5	1	3	
82.	17-3-2021	20					5	
83.	18-3-2021	18	2				8	
84.	23-3-2021	18	1	1	1		7	1
85.	24-3-2021	18					6	
86.	25-3-2021	16			2		2	
87.	30-3-3021	14			1		1	
88.	31-3-2021	14					6	
	<b>March Total</b>	<b>258</b>	<b>6</b>	<b>6</b>	<b>18</b>	<b>1</b>	<b>77</b>	<b>3</b>
	<b>G. Total</b>	<b>1731</b>	<b>36</b>	<b>25</b>	<b>66</b>	<b>10</b> <b>(including</b> <b>2</b> <b>duplicate</b> <b>MSCs)*</b>	<b>517</b>	<b>80</b>

Table 4.1: Date-wise Court sittings and number of cases heard during 2019-20

During the year 2020-21, a total of 14 MSCs were issued out of which 6 MSCs of the cases which were decided by the Commission in the previous years.

The Commission held 88 sittings during 2020-21 as compared to 126 during 2019-20 and heard 1731 cases as compared to 3517

cases in the previous year. The maximum number of sittings were held in the months of September 2020 and March 2021 (14 sittings in each month) and least number of sittings were in August & December 2020 (6 sitting in each month). The Court of the Commission did not hold any sittings from 01.04.2020 to 17.08.2020 due to COVID-19 pandemic.



Maximum numbers of cases were heard during the month of February, 2021 (287 cases) followed by March, 2021 (258 cases) and November, 2020 (252 cases). The least number of cases were heard in August, 2020 (120 cases) followed by December, 2020 (124 cases). Month-wise number of cases heard is given in figure 4.1.

Status Certificate (MSC) application form is revised from time to time. The latest revision was done on 1<sup>st</sup> November, 2019 (**Annexure-1**). This is available on NCMEI website ([www.ncmei@nic.in](http://www.ncmei@nic.in)). For the ease of the applicants/ petitioners, checklist of mandatory documents is required to be attached with the application form and is available on the NCMEI

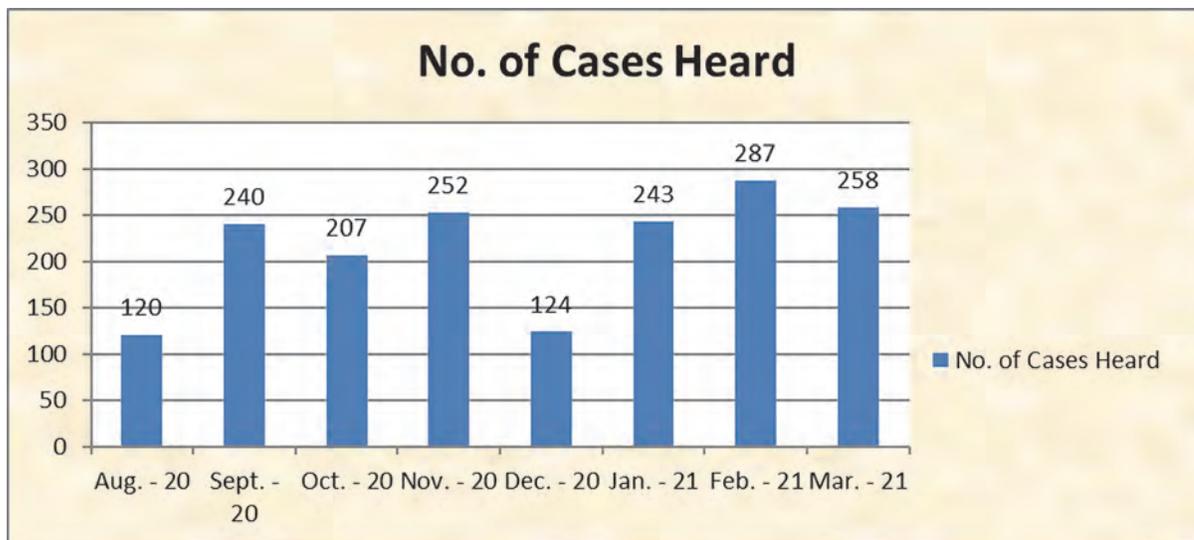


Figure 4.1: Month-wise Number of cases heard from August 2020 to March 2021

**Of the 1731 cases heard during 2020-21, 36 were dismissed due to multiple reasons, 66 cases were dismissed as withdrawn, 25 cases were remanded to the State Competent Authority for deciding the application of the MEI.** In 517 cases, notices were served as per order of the Court of Commission. Notices to the respondents and show cause notices to the applicants were served. As ordered by the Commission, letters were sent to the State Governments and the applicants in 80 cases.

## 4.2 GRANT OF MINORITY STATUS CERTIFICATE:

The eligible Minority Educational Institution can apply to the NCMEI and also to the State Authority for grant of MSC. As per the requirement of the Commission the Minority

website. As per the provisions of the NCMEI Act, 2004 (amendment, 2006), the applicant institution before applying to the Commission for grant of MSC, is required to apply for 'No Objection Certificate' (NOC) to the State Competent Authority (the list of Competent Authority is at **Annexure-3**). If, the applicant institution whose NOC under Section 10 of the NCMEI Act, 2004 has been rejected by the State Competent Authority, then the applicant can appeal against the order under Section 12A of NCMEI Act, 2004 and as per National Commission for Minority Educational Institutions (Procedure for Appeal), Rules, 2006. The format of application is annexed at **Annexure-2**.

In case the eligible MEI applied to the State Authority for MSC and the same is rejected by the said Authority then the applicant

institution can appeal under Section 12B of NCMEI Act, 2004 and as per National Commission for Minority Educational Institutions (Procedure for Appeal), Rules, 2006. The format of application is annexed at **Annexure-2**. The application for appeal under Section 12A and 12B are also available on NCMEI website ([www.ncmei@nic.in](mailto:www.ncmei@nic.in)).

The highlights of the MSCs granted by the Commission are given as under:

- Since inception, 13579 Minority MSCs have been issued till 31/03/2021. Total 14 MSCs were issued during 2020-21 as compared to 12 MSCs during 2020-21. In addition, duplicate MSCs have been issued to two MEIs. Both duplicate MSCs were issued to MEI from the State of Kerala.
- State-wise number of MEIs which have been granted MSC during 2020-21 is detailed in table 4.2.

S. No.	Name of the State	Number of MSCs issued during 2020-21
1.	Madhya Pradesh	5
2.	Odisha	1
3.	Tamil nadu	3
4.	Uttar Pradesh	5
<b>Total</b>		<b>14</b>

Table 4.2: State-wise number of MEIs granted during 2020-21

- MEIs from the State of Madhya Pradesh, Uttar Pradesh were issued 5 MSCs each followed by Tamil Nadu with 3 MSCs and one MSC was granted to MEI from Odisha.
- Community wise, MSCs granted during the year 2020-21 are given in the table 4.3.

Christians	Muslims	Jains	Sikhs	Budhishts	Parsis
5	2	6	1	0	0

Table 4.3: Community-wise MSCs granted during 2020-21

### 4.3. VERIFICATION OF SOCIETIES/TRUSTS:

In order to bring transparency in the process of granting MSC, the Commission conducts random verification of the Society/Trust running a MEI. The issue relating to verification is taken up with the Chief Secretary/Administrator of the concerned State/UT who verifies the functioning of the Society/Trust and existence/working of the educational institution.

Further, pursuant to NITI Aayog's instructions in 2016, all petitioners are required

to furnish the unique-ID allocated by NITI Aayog through its NGO Darpan Portal. In the unique-ID document the name and address of the society/trust which run the MEI is provided and also the name of the society/trust office bearers. These details are cross verified from the details provided in the MSC application.

### 4.4. NEW POLICY INITIATIVES TOWARDS e-GOVERNANCE

e-Governance is easy, effective and economical governance. Initiatives taken during 2017-18 for proper implementation of the



concept of e-Governance has been carried forward during 2020-21 also, with the objective of enhancing transparency, accuracy and efficiency in the functioning of the Commission. Some of the initiatives are:

- (i) **Dynamic NCMEI Website:** NCMEI has its own website which is user friendly and updated with current content. Procedure for filing MSC application, checklist of mandatory documents, details of the nodal officers and State Competent Authority etc. are all available in the website.
- (ii) Online search of cases State-wise, year-wise and community-wise are also available on the website.
  - Daily Cause List /Court Orders / Judgments are uploaded on to the NCMEI Website <http://ncmei.gov.in> on regular basis
  - Details of MSCs issued to the MEIs along with Community are uploaded on the website
- (iii) **Implementation of e-Office:** In order to digitize the administrative work and track record, all new receipts are scanned and uploaded on e-office. Further, online RTI disposal and online public grievance redressal of CPGRAMS is also followed in the Commission.
- (iv) **Public Finance Management System (PFMS):** Commission is on PFMS since 2017. This is a financial management platform which establishes an efficient fund flow system as well as a payment cum accounting network. This has brought in transpar-

ency in expenditure and provides real-time information on the availability of funds and funds utilization. This system is an important tool for improving governance.

- (v) **Digitization of Records:** Keeping in view the Hon'ble Prime Minister's vision on Digital India, it was decided to digitize all the files, wherein MSCs have been granted. To ensure transparency all such records have been uploaded on the website for the general public.

#### 4.5. SWACHH BHARAT MISSION

With the aim to make India clean, Hon'ble Prime Minister desired that the Central Government Ministries and its attached offices should observe in a calendar year Swachhta Pakhwada. Swachchata Pakhwada was celebrated in the month of September, 2020. Various activities were undertaken in the Commission's premises which include removal of waste material from and around the office, arrangement of files in proper racks, weeding of old records etc. The swachchata pledge was administered by the Hon'ble Chairman to the staff members. A number of other initiatives have been taken for the cleanliness of the premises from time to time.

#### 4.6. VIGILANCE OBSERVANCE WEEK:

Vigilance observance week from 27<sup>th</sup> October to 2<sup>nd</sup> November, 2020 was observed in the Commission and the Integrity Pledge was taken on 27<sup>th</sup> October, 2019. The theme was "Vigilant India, Prosperous India".

#### 4.7. RASHTRIYA EKTA DIWAS PLEDGE:

The spirit of unification of the country



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was made possible by the vision and actions of late Sardar Vallabhbhai Patel. A pledge of Unity that every one of us will preserve the unity, integrity and security of the nation and

contribute towards ensuring internal security of the country was administered by the Hon'ble Chairman and Hon'ble Members of the Commission to the staff.



## CHAPTER 5

# Tours and Visits

Tours were undertaken by the Hon'ble Chairman and the Members, for the purpose of interacting with the stakeholders and members of the minority community and to understand the problems/ difficulties faced by them. It also gives an opportunity to the Commission to apprise the members of the minority community about their Constitutional rights as well as the role and responsibilities of NCMEI.

The tours and visits also provides an opportunity to interact with the political and the State Government functionaries and also ascertain the progress made by the State Governments in ensuring the education of Minorities. The tours and visits have helped in sensitizing the officials of the State Governments about the rights of minorities enshrined in Article 30(1) of the Constitution of India.

### 5.1 Details of the Tours Undertaken and Meetings Attended during 2020-21, by Justice Narendra Kumar Jain, Hon'ble Chairman of the Commission

S.No	Date	Place of visit	Purpose of visit and revevant outcomes
1.	09.11.2020 to 16.11.2020	Deoli, Nainwan, Baghera, Jaipur, Swastidham (Rajasthan)	During the tour, Hon'ble Chairman apprised the owners, trustees and managers of these Minority Institutions about their educational rights enshrined in Article 30 (1) of the Constitution of India and how NCMEI is protecting their rights. He also addressed them about the provisions of NCMEI Act, 2004. Management education is one of the most sought after career options and mushrooming institutions stand testimony to its popularity. Infrastructure and qualified faculty are prerequisite of a sound
2.	21.12.2020 to 24.12.2020	Deoli, (Rajasthan), Jhansi, Kundalpur (MP)	
3.	31.12.2020 to 03.01.2021	Nakoda, District Barmer (Rajasthan)	
4.	28.1.2021 to 29.1.2021	Shanti Nagar, Jaipur, (Rajasthan)	
5.	30.1.2021 to 31.1.2021	Saharanpur, Muzaffarnagar, Hastinapur, District Meerut (Uttar Pradesh).	
6.	4.3.2021 to 8.3.2021	Sawai Madhopur, Deoli, Jaipur, Bundi (Rajasthan)	



S.No	Date	Place of visit	Purpose of visit and relevant outcomes
7.	30.03.2021 to 02.04.2021	Uniara, Jodhpur, Brahmaspur, Lodurva, Jaisalmer (Rajasthan).	Management Institution. Hon'ble Chairman also informed managers of these minority institutions about various beneficial schemes launched by the Central Government for the minorities. During the tour the Initiatives of Government of India like 'Beti Bachao Beti Pado', Nai Roshni was also highlighted by Hon'ble Chairman. Further, he emphasized on importance of leadership building in MEIs.



## CHAPTER 6

# Analysis of the Petitions and Complaints Received During the Year

The Commission registers cases as and when petitions/complaints are received under the following functions:

- review the safeguards provided by or under the Constitution, or any law for the time being in force, for the protection of educational rights of the minorities and recommend measures for their effective implementation;
  - specify measures to promote and preserve the minority status and character of institutions of their choice established by minorities; and
  - decide all questions relating to the status of any institution as a Minority Educational Institution and declare its status as such.
- non-issuance of No Objection Certificate (NOC)/delay in issue of NOC by the State Government
  - non-grant of Minority Status Certificate by the State Authority or delay in the issue of minority status certificate
  - denial of permission to open new institutions by minorities
  - refusal to permit additional courses in a minority educational institutions
  - application for grant of Minority Status Certificate

From 1<sup>st</sup> April, 2020 to 31<sup>st</sup> March, 2021, the Commission registered 365 petitions, out of which 337 petitions were for grant of Minority Status Certificates, 11 were appeal petitions and 17 miscellaneous petitions. As per the daily court orders, the Hon'ble Court disposed off 149 petitions which include cases which were dismissed as withdrawn and dismissed by default. The Court granted Minority Status Certificate to 14 Minority Educational Institutions.

The Commission registers cases on following grounds;

The Commission also considers cases with respect to the following issues affecting interests of MEIs:

- denying permission to the minority educational institutions for creating additional posts of teachers even with increase in the intake of students
- not giving approval for appointment of teachers
- inequality in pay scales of minority school teachers vis-à-vis government school teachers,
- denial of teaching aids/other facilities like computer, library, laboratory, etc. to minority educational institutions at par with government institutions,

- non-availability of subjects books in Urdu for the students studying in Urdu school,
- non-appointment of Urdu knowing teachers regarding pay parity of madarsah teachers with other minority school teachers; adequate pay to madarsah employees; and non-release of grant to madarsah,
- non-payment of retirement benefits to the teachers and non-teaching staff of the minority schools,
- refusal by the University to affiliate a MEI
- providing facilities under Sarva Shiksha Abhiyan to minority educational institutions especially in far flung and remote rural areas, etc.

During the year, office of the Commission also received petitions/applications on matters which were not within the purview of the Commission. These petitions/applications were forwarded to the concerned authorities for appropriate action under intimation to the concerned petitioners.

During the year, cases with regard to grant of MSC to the MEIs have been considered / decided by the Hon'ble Commission during the year which are given as under:

### **6.1 CASE NO. 165 of 2019**

**Subject: Application for seeking minority status certificate by Indore Mahavidyalaya, Village Jambudi, Indore, Madhya Pradesh- 453 112.**

**Applicant: Indore Mahavidyalaya, Village Jambudi, Indore,**

### **Madhya Pradesh- 453 112.**

**Respondent: The Secretary, Backward Classes and Minority Welfare Department, Government of Madhya Pradesh.**

The order was pronounced on 3<sup>rd</sup> December 2020. The Commission heard the learned counsel appearing for the petitioner institution and perused the record, documentary evidence and affidavit of Mr. Pravin Jain, Chairman of Shri Motilal Nagar Smriti Shikshan Samiti. The petitioner institution applied for grant of MSC on the ground that the same was established primarily for the benefit of the members of the Jain community and is being administered by the Shri Motilal Nagar Smriti Shikshan Samiti which is managed and run by the members of the Jain community. Management of Indore Mahavidyalaya, Village Jambudi Hapsi, Hatod, Indore, District Indore, Madhya Pradesh is in the hands of Jains. Respondent has granted MSC to the petitioner institution for one year vide letter No. A.S./734/2017/17-2/4244 dated 10.8.2017. The afore-said averments made in the petition find ample corroboration from the documentary evidence produced on behalf of the petitioner institution and the affidavit of Mr. Pravin Jain. The Amended Memorandum of Association of the said society clearly reflects that the beneficiaries of the petitioner institution are members of the Jain community. The said facts are also stands proved from the affidavit of Mr. Pravin Jain. The Amended Memorandum of Association and all the documents produced by the petitioner institution clearly reflected that the beneficiaries of the petitioner institution are primarily members of the Jain community. There was no document on record to rebut the documentary evidence produced on behalf of the petitioner institution. Relying on the said unrebutted evidence produced on behalf



of the petitioner, the Commission found and held that Indore Mahavidyalaya, Village Jambudi Hapsi, Hatod, Indore, District Indore, Madhya Pradesh run by Shri Motilal Nagar Smriti Shikshan Samiti is eligible for grant of minority status on religious basis. The evidence also proved that the said educational institution was established with the main objective of sub-serving the interests of the Jain Community. Consequently, Indore Mahavidyalaya, Village Jambudi Hapsi, Hatod, Indore, District Indore, Madhya Pradesh was declared as a minority educational institution covered under Article 30 of the Constitution of India within the meaning of Section 2(g) of the National Commission for Minority Educational Institutions Act, 2004 subject to the condition that the petitioner would file an affidavit or undertaking to the fact that the petitioner institution shall not deny admission of eligible candidates of the minority community subject to availability of accommodation in the petitioner institution and the petitioner would file updated copy of the recognition order issued by the AICTE.

The Hon'ble Court observed that after compliance of the above order, MSC be issued accordingly. In view of the above, the present petition was disposed of in accordance with that order.

## **6.2 CASE NO. 181 of 2019**

**Subject: Application for seeking minority status certificate by Om College of Education, Plot No. 249/1, District Jhabua, Madhya Pradesh.**

**Applicant: Om College of Education, Plot No. 249/1, Madhya Pradesh.**

**Respondent: The Secretary, Backward Classes and Minority Wel-**

## **fare Department, Government of Madhya Pradesh.**

The order was pronounced on 3<sup>rd</sup> December 2020. The Commission heard the learned counsel appearing for the petitioner institution and perused the record, documentary evidence and affidavit of Mr. Pravin Jain, Chairman of the Sajjan Adiwasi Shikshan Avam Vikas Samiti.

The petitioner institution had applied for grant of minority status certificate on the ground that the same has been established primarily for the benefit of the members of the Jain community and is being administered by the applicant Om College of Education, Plot No. 249/1, Village + Post Jhabua, District Jhabua, Madhya Pradesh- 457 661 run by Sajjan Adiwasi Shikshan Avam Vikas Samiti which is managed and run by the members of the Jain community. Management of said college is in the hands of Jains. Respondent had granted minority status certificate to the petitioner institution for one year vide letter No. A.S./791/2017/17-2/4254 dated 10.8.2017. The aforesaid averments made in the petition find ample corroboration from the documentary evidence produced on behalf of the petitioner institution and the affidavit of Mr. Pravin Jain. The Amended Memorandum of Association of the said society clearly reflected that the beneficiaries of the petitioner institution are members of the Jain community. The said facts were also stands proved from the affidavit of Mr. Pravin Jain. The Amended Memorandum of Association and all the documents produced by the petitioner institution clearly reflected that the beneficiaries of the petitioner institution are primarily members of the Jain community. In addition, the said facts are also stands proved from the documents and affidavit filed by the petitioner.

There was no document on record to re-



but the documentary evidence produced on behalf of the petitioner institution. Relying on the said unrebutted evidence produced on behalf of the petitioner, Hon'ble Court of the Commission found and held that Om College of Education, Plot No. 249/1, Village + Post Jhabua, District Jhabua, Madhya Pradesh run by Sajjan Adiwasi Shikshan Avam Vikas Samiti was eligible for grant of minority status on religious basis. The evidence also proved that the said educational institution was established with the main objective of sub-serving the interests of the Jain Community. Consequently, Om College of Education, Plot No. 249/1, Village + Post Jhabua, District Jhabua, Madhya Pradesh- 457 661 was declared as a minority educational institution covered under Article 30 of the Constitution of India within the meaning of Section 2(g) of the National Commission for Minority Educational Institutions Act, 2004 subject to the condition that the petitioner would file an affidavit or undertaking to the fact that the petitioner institution shall not deny admission of eligible candidate of the minority community and the availability of the accommodation in the petitioner institution and the petitioner would file updated copy of the recognition orders for B.Ed. and D.El.Ed. Programmes issued by the NCTE.

After compliance of the above order, a MSC be issued accordingly. In view of the above, the petition was disposed of in accordance with that order.

### **6.3 CASE NO. 1668 of 2012**

**Subject: Application for seeking minority status certificate by Stewart Science College through its Secretary, Rev. Purna Sagar Nag, S/o Late Mr. Baisnaba Nag having his office at Bishop's House, Madhusudan Road, P.O.**

**Buxibazar, P.S. Lalbag, District Cuttack, Orissa**

**Applicant: Stewart Science College through its Secretary, Rev. Purna Sagar Nag, S/o Late Mr. Baisnaba Nag having his office at Bishop's House, Madhusudan Road, P.O. Buxibazar, P.S. Lalbag, District Cuttack, Orissa.**

**Respondents / Interveners :-**

- 1. State of Orissa, Represented by the Secretary, Department of Higher Education, Secretariat Building, Bhubaneswar, District Khurda, Orissa**
- 2. The Director, Higher Education, Bhubaneswar, Secretariat Building, Bhubaneswar, District Khurda, Orissa**
- 3. Dr. Shyamal Kumar Saha and 5 others ..... Respondents**
- 4. Dr. Debasis Acharya and 6 others .....Intervener respondents**

The order was pronounced on 10.09.2020. Secretary, Stewart Science College, Madhusudan Road, Lalbag, District Cuttack, Orissa filed the petition on 14.08.2012 for grant of minority status certificate (MSC) in favour of Stewart Science College.

Hon'ble division bench of High Court of Orissa, Cuttack in Civil Writ Petition No. 2207 of 2012, 29737 of 2011, 7579 of 2008 and 9406 of 2008 passed the following order on



26.06.2012 :-

*“Accordingly, we dispose of all the four writ petitions directing the Management to approach the Commission for obtaining declaration, regarding Minority Status of Stewart Science College within a period of two months imploding the State Government and petitioners as parties. In case application seeking Minority Status of Stewart Science College as directed is filed before the Commission, we request the Commission to decide the matter on merit expeditiously without being in any manner influenced by any observation made in the decision of learned Single Judge in WP(C) Nos. 7762 of 2004; Governing Body of Stewart Science College, Cuttack and another (supra) or by us in this judgement.*

Status quo as on today be maintained till a declaration is made by the Commission provided the Management of Stewart Science College submits the required application within the time granted. In the event of failure on the part of the Management status quo ante in the matter of appointing of Principal of the College as was prevailing prior to the passing of the impugned resolutions shall be maintained till the decision of the Commission”.

(emphasis supplied)

The brief facts of this case are that petitioner submitted an application with petition in prescribed format for obtaining MSC to Stewart Science College as per the direction of Hon'ble Division Bench of High Court of Orissa. There are only two minority aided colleges in the

State of Orissa namely Christ College and Stewart Science College. Both were established in the year 1944 and the Government of Orissa vide combined resolution/letter dated 18.03.1983, 11.07.1984, 05.02.1985 and 27.07.2001 had recognized these two colleges as minority institutions. In the year 2007, the Christ College had approached this Commission for grant of MSC but this Commission vide order dated 11.09.2007 held that the College has been recognized by the State of Orissa as a MEI. Reliance has been placed on order dated 18.03.1983 issued by the Directorate of Public Instruction (HE), Orissa. Since the State Government has already recognized the petitioner institution as a MEI, there was no need to issue another certificate by the Commission. As both above colleges were recognized on the same order dated 18.03.1983, the management of the petitioner's institution did not approach this Commission. So the petitioner had prayed for grant of MSC in favour of the petitioner institution. In the Column No. 9(g) of the petition it was stated that in the year 1957 the Baptist Missionary Society Corporation (BMSC) appointed the Baptist Church Trust Association as the trustee and vested property of Stewart Science College vide registered deed no. 4489 on 12.12.1957. The Stewart Science College comes under the jurisdiction of Diocese of Cuttack CNI, which is a constituent body of the Baptist Church Trust Association (BCTA).

On dated 04.10.2012, Rev. Purna Sagar Nag filed detailed affidavit on behalf of the petitioner institution along with some documents stating therein that the Stewart Science College was established in the year 1944 by the Christian minority community and is affiliated to Utkal University and Council of Higher Secondary Education, Orissa. The main object of running this college is to impart education primarily to the children of the Christian



minority community in a congenial atmosphere for growth of their culture and faith and in order to sufficiently equip their children with the qualification necessary for a useful career in life. All the founder members and the present members of governing body of the college are from the Christian religious community.

Respondents No. 3 to 8 filed reply, affidavit and vehemently opposed the petition filed by the petitioner for grant of MSC and submitted that respondent no. 3, having been authorized by the other respondents. In the reply affidavit it was said that affidavit filed by the petitioner had no merits at all. The documents filed by the petitioner do not reveal that the Stewart Science College was established by the resident Indians/ Christians residing in India. The documents filed by the petitioner reveal that Stewart Science College has not been established by a minority and hence it cannot get the right to administer the same. The petitioner filed an extract of book which is not even recognized and is only a research document.

This document also reveals that this institution was meant for a handful of Europeans and Anglo Indians. So this document does not speak of establishment of college by minority resident Indians. The document dated 13.09.1945 does not show that Stewart Science College was established by resident Indians for minority in India. The Presence of Ms. Lazzarus, Rev. ER. Lazzarus, Rev. D.T. Roberts, Ms. Wignor, Rev. F. Fellows in a meeting on 16.03.1944, does not indicate that the aforesaid persons were ever instrumental in establishing the Stewart Science College.

It is an admitted fact that the college was established by BMSC, so called Cuttack Station Committee is a self creation of so called native Indians/ resident Christians. Declaration of Stewart School as a minority institution

has no reasonable connection with respect to declaration of minority status of separate and independent institution, namely Stewart Science College. The affiliation and recognition of Stewart Science College are different and the status of the college is also different. Therefore, the plea that Stewart Science College is an offshoot of Stewart School is only a misnomer. As per the judgement of D.B. of the High Court of Orissa dated 26.06.2012, the judgement of Hon'ble Single Judge in Writ Petition No. 7762/04 is per-incuriam and the specific direction was that the said judgement dated 10.04.2008 shall not be taken into account while deciding the issues with regard to minority status of Stewart Science College. It is an admitted fact that the present management is not the establisher of the college and has no right to administer the college. CNI is only a user of the institution and the title remains with BCTA. The BCTA i.e. the said owner does not come forward before this Commission to claim MSC. The user of the institution has no semblance of rights.

During the pendency of this application respondent no. 9 to 15 filed an application with the contention that question of legality and propriety of minority status of Stewart Science College which was established and administered by the Christian minorities of the State of Orissa, the fully aided and recognized as a minority institution. The Respondent No. 3 to 8, who were the teaching staffs of the college belonging to non-minority community, having failed in their attempt to become Principal of the college, had approached the High Court of Orissa by filing writ petition. While disposing the aforesaid writ petition Hon'ble High Court inter-alia directed the management of the college to approach this Commission to obtain the certificate of minority status. The present interveners are now working as teaching staff of the college. In this case, they are



being the necessary parties for proper and effective adjudication of the matter. So they may be impleaded as parties and provided with opportunity to be heard in this matter. Interveners preferred to join this college being aware of the advantageous service conditions available in the college particularly the college having been recognized by the Government of Orissa as an aided minority institution, the services of the staffs of this college are not transferable. On dated 15.05.2013 above application filed by the respondents no. 9 to 15 as interveners was allowed and interveners are impleaded as respondents.

On dated 23.10.2013, interveners filed detailed affidavit along with documents and stated therein that they are faculty/ staff of the college. Interveners joined the college knowing that the college is a minority institution and there will be no transfer of service as the staff of the college is not included in common cadre. Respondents No. 3 to 8 were never transferred in their entire service career as the college was not included in common cadre being a minority institution. Interveners supported the case of petitioner institution and submitted that college is a minority institution and respondent no. 3 to 8 are misleading this Commission as they are at the fag end of their service. In the facts and circumstances, this Commission be pleased to issue MSC in favour of the college as it was established and being administered by the Christian minority community. Interveners filed 6 documents in support of their contentions.

On dated 21.01.2013, petitioner filed rejoinder to the reply filed by the respondent no. 3 to 8 and submitted that all the reply is incorrect, misconceived, misleading and denied. Respondents made their whole pleadings to the extent of appointment of Principal, which is not the subject matter of this petition. The

limited question before this Commission is about the minority status of the college as per the decision of the Hon'ble Division Bench of High Court of Orissa. Minority institution is competent to claim the protection of Article 30(1) of the Constitution of India provided the persons setting up educational institution must be resident in India which includes foreigners residing in British India and Native Indians prior to independence. BMS London having its registered office at Kolkata had established the college through the Cuttack Station Committee of BMS. The Christian Missionaries of UK residing in India and the local Christian residents of Cuttack (Native Indians) jointly started this college in 1944 as a Branch of Stewart School, Cuttack. The said BMSC appointed BCTA as the new trustee to hold the property of churches and institutions including the college. The Diocese of Cuttack being a constituent body of the BCTA in Orissa is the sole successor of the churches and institutions. In support of their contentions petitioner has placed reliance on the 35 documents.

On the other hand, respondents submitted that "management" of the petitioner institution did not file the application for grant of MSC before this Commission and is liable to be rejected. The letters dated 18.03.1983, 11.07.1984, 05.02.1985 and 27.07.2001 in no manner speaks of recognition of the college as a minority institution. The college was established by BMC London and it is an overseas Corporation registered under English Law and the members registering could never be residents of India and as such it cannot be conferred with MSC. These corporations are "eleemosynary corporation". Such right cannot be claimed by succession or inheritance. Percentage of minority students is only 5.24. Government of Orissa reconstituted the Governing Body of the college vide letter dated 21.12.1972 for a period of 3 years, so the col-

lege was just like any other non Government aided education institution. In support of their contentions, respondents no. 3 to 8 has placed relying on the 24 documents.

On dated 21.01.2013, Learned Counsel for the respondent nos. 3 to 8 filed an application seeking direction to Respondent No. 1 & 2 for production of original documents. On dated 15.05.2013 above application was allowed and directed the respondent no. 1 & 2 to produce the original record in question on or before the next date. On dated 22.01.2014, Learned Standing Counsel for the State of Orissa (Respondent No. 1 & 2) submitted before the Commission a file of Government orders recognizing the petitioner institution as a minority institution. Thereafter, this Commission passed an order stating that the above record is to be kept under sealed cover. On dated 09.04.2019, Commission opened the sealed record. After pursuing all the record and preparation of list of documents, record was again kept in sealed cover. 26 documents produced by Learned Standing Counsel for the State.

Principal Secretary, Department of Higher Education, Government of Orissa filed an affidavit on behalf of the respondent no. 1 & 2 and submitted that the college is an aided minority institution established and administered by Christian minority under Article 30(1) of the Constitution of India.

Respondent No. 3 to 8 filed an application declaring of the above affidavit is a false and as such it is liable to be expunged from the record. By the above order dated 21.01.2013 the petitioner's application seeking permission to cross examine Learned Standing Counsel for the State was been deferred till further orders and in view of the said order the application filed by the respondent nos. 3 to 8 was dismissed as premature.

During the pendency of this application before this Commission, Government of Orissa issued a letter on dated 28.03.2014 recognizing the college, as a MEI. The aforesaid letter issued by the Government of Orissa was challenged before the Hon'ble High Court of Orissa, in Writ Petition No. 9698 of 2014 and Hon'ble High Court stayed the above letter.

On dated 16.05.2019, Learned Counsel for the respondent nos. 3 to 8 submitted that respondent no. 4 died long back. Therefore, Learned Counsel for the petitioner submitted that they do not want to implead the representations of deceased respondent no. 4 looking into the facts of the case.

Learned Counsel for the petitioner submitted that the college was established in 1944 by the BMSC, London working in State of Orissa through its local committee in Cuttack and was established out of the Stewart School in the year 1944 at the level of intermediate Science. Both the institutions continued to function under one management till 1946. Thereafter the college management was separated, its Governing body was formed and the Bank Account was also separated, but one Principal continued to function for both the institutions for some years. The college is managed through its Governing body which is registered under Society Registration Act and was established with an object to provide education especially in the field of science primarily for the students of Christian minority community upto graduation level. The management of the college was the diocese of Cuttack CNI which is also a constituent body of the BCTA. The ownership of the properties is vested in the BCTA, CNITA for the use of the management, the Diocese of Cuttack, church of North India (CNI). The college was granted to use the land and building as long as continues to be run by Governing Body, appointed by the



Management which is a constituent body of the BCTA. On 20.12.1946 the first Governing Body of the college was formed and met separately. It had total 5 members.

Learned Counsel for the petitioner further submitted that as the parent school, out of which college came into existence has been declared as a minority institution by this Commission and Government of Orissa has recognized the College as a minority institution. There was no necessity for obtaining any further declaration. Government of Orissa, Department of Higher Education has time and again recognized vide letter dated 18.03.1983, 11.07.1984, 27.07.2001 and 05.02.1985 that the college and Christ College, Cuttack as minority aided institutions.

In the matter of N. Ammad Vs. Manager Emjay High School reported in AIR 1999 Supreme Court Page 50, Hon'ble Apex Court has held that when the Government declared the school as a minority school, it has recognized a factual position that the school was established and is being administered by a minority community. The declaration is only an open acceptance of a legal character which should necessarily have existed antecedents to such declaration. Therefore, we are unable to agree with the contention that the school can claim protection only after the Government declared it as a minority school. Ratio of the above judgement applies to the case of college and prayed that the college be declared as a minority institution. Learned Counsel for the petitioner admitted that the Government of Orissa has taken stand in Writ Petition (C) bearing no. 7762 of 2004 by filing counter affidavit that the governing body of the college was dissolved as the college was not protected under Article 30 of the Constitution of India vis-à-vis Section 2 of the Orissa Education Act, 1969. The college was established by the

BCTA, a company registered under the Indian Companies Act with its registered office at Kolkata. The State Government would not have intervened in the administration but the administration of the college was handed over to the Diocese of Cuttack on dated 02.12.1970. In WP (C) no. 2207 of 2012 State of Orissa has admitted by filing an affidavit that the College is a MEI. Learned Counsel for the petitioner has submitted that in this petition, the Principal Secretary to the Government of Orissa, Higher Education Department has clearly admitted by filing affidavit dated 01.10.2012 that it is apposite to mention that in an earlier WP(C) No. 7762 and 7763 of 2004 which was disposed on 10.04.2008 by the Hon'ble High Court of Orissa, inadvertently a plea that the governing body of College was dissolved as the college was not protected under Article 30 of the Constitution of India vis-à-vis Section 2 of the Orissa Education Act, 1969 which was taken in the counter affidavit filed by the State. However, as a matter of fact on record, the said college has been treated/ recognized by the State Government as an aided MEI and protected under Article 30 (1) of the Constitution of India. For better appreciation, the photocopies of some of the Government orders/ resolutions dated 11.07.1984, 05.02.1985, 27.07.2001 which clarifies the stand of Orissa Government, Secretary of the BCTA filed an affidavit stating that the BCTA is holding trust of the college, and the Diocese of Cuttack is a constituent provincial body of the BCTA. In Civil appeal no. 1898 of 1987 on 20.07.1988, Hon'ble Supreme Court has approved that Diocese of Cuttack CNI alongwith other provincial bodies are the consequent bodies of the BCTA. The Diocese of Cuttack is still a constituent provincial body of the BCTA and the members of it are in the management of all the institutions under its jurisdiction including the college.



Learned Counsel for the petitioner submitted that several documents have proved that the college was established as a branch of school on 01.07.1944 and both the institutions were an integral unit for some time. The BMC Station Committee was the then management of these institutions. These facts have been mentioned in the book “the British Rule Missionary activities in Orissa” vide deed of appointment of new trustees dated 12.12.1957 bearing registration number 4489 of 1957, the BMSC had transferred the trusteeship of the properties of the school and the college along with other properties to the BCTA to hold the said properties for the furtherance of its objectives. Prior to transfer the property holding body was the BMSC and the management of the institutions and churches whereby the then provincial body of Orissa namely UCCCC. However in the year 1970, UCCCC ceased to exist as it was merged with the CNI. All the institutions and churches in Orissa came under the management of the Diocese of Cuttack, CNI and the Diocese of Sambalpur, CNI which is successor of UCCCC in Orissa. The BMSC was a religious and charitable company registered in UK and holding trust of churches and institutions of the BMSC. The BMSC working in India prior to independence was also registered in India, before Registrar of Company, Bengal on 09.12.1913 as required under section 277(1) of Indian Companies Act, 1913, being a foreign company working in India. Only in the year 1973, the foreign companies were restricted to hold property in India as per the Foreign Exchange Regulation Act, 1973 (in short FERA). Section 31 of FERA stipulates that a foreign company can hold property in India with permission of the RBI only. Therefore, prior to enactment of FERA there was no restriction for BMSC to hold property in India. Thus the deed of appointment and vesting the properties in the

year 1957 by the BMSC was valid in eyes of law. BMSC appointed BCTA as a new trustee vide registered deed in pursuance to the Section 4 of Religious Societies Act 1880. As per the provisions of above act by registered deed the BMS continued as old trustee along with new trustee. Learned Counsel for the petitioner submitted that there is a legal transfer of trusteeship to BCTA in which the properties of the college and the school along with other properties vested with BCTA.

Learned Counsel for the petitioner further submitted that BCTA registered under Companies Act is the holding trust of Baptist property in India. The BBU, BUNI, MBC, Diocese of Cuttack, Diocese of Sambalpur, BMS, CNITA and UCA are the constituent provincial bodies and society of the BCTA, who is the management of the churches and institutions under their territorial jurisdiction. As per Article of Association these constituent provincial bodies and societies of the BCTA nominated their representatives of the AGM of the BCTA. The Diocese of Cuttack being a constituent body of the BCTA in Orissa is the sole successor for management of the churches and institutions under its jurisdiction and the management of the college till date. Learned Counsel for the petitioner also submitted that as per the Article 2 of the registered constitution of the college, it is primarily meant for the benefit of students of Christian minority community. As per the Article 4, the College was registered in the year 1944 by the BMSC, London working in Orissa and its legal successor is the Diocese of Cuttack CNI w.e.f. 29.11.1970, after the unification of churches in India.

Learned Counsel for the petitioner invited attention of the Commission on Article 5 & 6 of the Constitution of Governing Body of the college. Respondent Dr. Shyamal Kumar Saha



and Shri Nishikant Kar had signed the registered constitution, rules and regulations of the governing body as witness confirming about establishment and ownership of the properties of the college. So respondents are estoppels to object the same after they failed to be promoted as the Principal of the College. Governing body of the college was registered with the Registrar of Societies, Orissa. Dr. Shyamal Kumar Saha and Shri Nishikant Kar have signed a memorandum of society being the member of the governing body of the college as the staff representatives, by which they both have admitted that the college is a minority college. As per Article 6 of the Constitution of the Bishop of the Diocese of Cuttack CNI shall be the President, Secretary as elected by the management for a period of 3 years, the Principal of the college shall be the ex-officio member. Six members shall be elected by the management. One representative is to be nominated by the District Collector of Cuttack and one representative is to be nominated by the Vice Chancellor of Utkal University. Two teacher representatives shall be appointed. In the present governing body out of 11 members, 9 are Christians and others belongs to Hindu religion. The BMSC being a foreign company was also registered in India before Registrar of Company, Bengal as required under the Indian Companies Act. BMS, London having its head office at Kolkata, received the registration from the Income Tax Department.

Learned Counsel for the petitioner further submitted that "Centenary Celebration Souvenir" and "Directory of Church related colleges in India" published by AIACHE and old minutes of BMS proves that the college was established by the minority community. Printed Publication like "British Rule in India", a research paper under Utkal University, proves that the college was established by the minor-

ity community. The college was started through the Local Station Committee, Cuttack invoking local participation and BMS foreigner Christian missionary residing in India prior to independence. In the matter RT Rev. Bishop S.K. Patro V/s State of Bihar Case (1969) 1 SCC 863 which was followed in St. Stephen's College V/s University of Delhi (1992) 1 SCC 558 that an institution may have been founded by foreigners but if they were residing in India, the protection of Article 30(1) of Constitution of India cannot be denied on the ground that they were not born in India. Learned Counsel for the petitioner submitted that it is very relevant that the Government of Orissa vide order dated 01.04.2003 promulgated a gazette notification as "The Orissa Education (Minority managed aided educational institution, employees method of recruitment and conditions of service) order 2003" to be followed by the Minority Managed Aided Educational Institution. The matter of reconstitution of the Governing body of the college was discussed in the emergency meeting held on 10.08.2004, relating to presidentship of the governing body of the college which was taken over by the ADM, Cuttack. In the said meeting Mr. Jayant Kumar Rath, Advocate was appointed to contest on behalf of the college. Respondent Dr. Shyamal Kumar Saha and Shri Nishikant Kar, being the staff representatives, participated and signed the minutes, so they cannot question the minority status of the college. Respondent has mis-interpreted the judgement of Mr. Vinod Kumar M. Malviya and Others V/s Magan Lal, Magan Das Gamiti and others reported in (2013) 15 SSC 39. The CNI was formed with union of 6 major protestants churches in India. Learned Counsel for the petitioner submitted that the case of P.A. Inamdar V/s State of Maharashtra reported in (2005) 6 SSC 537 and St. Stephen's College V/s University of Delhi AIR (1992) SC 1630



squarely apply to the case of present petitioner. The ADM of Cuttack vide letter no. 140 dated 24.07.2004 has sought information about the reservation of seats for students of minority community and college has replied to the ADM vide resolution no. 11 of 2004. Respondent Dr. Shyamal Kumar Saha and Shri Nishikant Kar signed the minutes and they are bound by the above version.

Learned Counsel for the petitioner further submitted that the minority institution is competent to claim the protection of Article 30(1) of the Constitution of India, provided the persons setting up educational institutions must be resident in India which includes foreigners residing in British India and Native Indians prior to independence. BMS, London having its registered office at Kolkata had established the college through the Cuttack Station Committee of BMS. The Christian missionaries of UK residing in India and the local Christian residents of Cuttack (Native Indians) jointly started this college in 1944 as a branch of Stewart School, Cuttack. The BMSC, London appointed BCTA as a new trustee to hold the property of churches and institutions including the college. The Diocese of Cuttack being a constituent body of the BCTA in Orissa is the sole successor of the churches and institutions under its jurisdiction and the management of the college. Prior to enactment of FERA Act, 1973 there was no restriction for BMSC to hold property in India and the deed of appointment and vesting properties in the year 1957 by the BMSC was valid. The BMS appointed BCTA as a new trustee vide registered deed under Religious Societies Act.

Learned Counsel for the petitioner submitted that the college has been recognized by State Government of Orissa as minority educational institution and was established and administered by the Christian minority

community and fulfills all legal criteria to grant MSC. So he prayed to issue MSC in favour of the governing body of the College, which is a registered body pursuant to requirement of Orissa Education (minority managed aided educational institution, employees method of recruitment and conditions of service) Order 2003. In support of their arguments learned counsel for the petitioner relied on the judgments of Rt. Rev. Bishop S.K. Patro V/s State of Bihar and Others, (1969) 1 SCC 863, St. Stephen's College V/s University of Delhi, (1992) 1 SCC 558, N. Ammad V/s Manager, Emjay High School, (1998) 6 SCC 674, Rt. Rev. Lingaraj Tandy and Others V/s State of Orissa & others, 94 (2002) CLT 307, Baptist Church Trust Association V/s Member, Company Law Board, Judgement Supreme Court of India in Civil Appeal No. 1898 / 1987 and No. 1899/1987 dated 20.07.1988 (Alongwith Report of Justice R M Dutta), Vinod Kumar M Malviya and others V/s Magan Lal Mangaldas Gameti and others (2013) 15 SCC 39 Supreme Court of India, Christ Church McConaghy School Society, Lucknow V/s Registrar Firms, Societies and Chits, Lucknow 2015 (33) LCD 2454 High Court of Allahabad (Lucknow Bench) and also invited attention on Section 2 of Orissa Education Act, 1969, Section 3 (1) (h) of the Orissa Gazette: Government of Orissa, School & Mass Education Department: No. 5831/SME, dated 28.02.2003, XIVE / codes – 25 / 2002, Section 31 of the Foreign Exchange Regulation Act, 1973, section 2 provides for local extent and section 4 provides for property to vest in new trustee without conveyance of the Religious Societies Act, 1880 and section 25 provides for Power to dispense with "Limited" in name of charitable or other company of Companies Act, 1956.

On the other hand, Learned Counsel for the respondent no. 3 to 8 vehemently opposed the contention of the petitioner and submitted



that the proof of facts of establishment of the institution is a condition precedent for claiming the right to administer the institution. The burden of proof lies on the petitioner who asserts that the institution is a minority institution. In the present case, petitioner has failed to prove that at the first instance institution was established by the minority residing in India. The college Cuttack was established prior to independence and is an aided educational institution and was established by BMSC, London in 1944. Present management has not established the college and was not established by any Indian citizens or residents of India belonging to any minority community. BMSC was a body incorporated under English Companies Act, 1867 having its registered office at Gloucester, London and appointed the BCTA as the trustee in 1957. Subsequently, another deed of transfer styled as transfer deed from trustee to trustee was executed on 15.01.1996. BMSC being an alien corporation/ overseas society cannot claim a fundamental right guaranteed by the Constitution of India. Such rights cannot be claimed by succession or inheritance. The present management has not established the college and cannot claim the right to administer the college. BMSC was registered under the English Companies Act and the corporation is "eleemosynary corporation". Neither BMSC nor CNI Trust Association can have any minority status.

Learned Counsel for the respondents no. 3 to 8 further submitted that mere fact that the educational institution is now being administered by a minority community is not sufficient to claim protection under Article 30(1) of Constitution of India, but they must also prove that it was established by a minority community residing in India. If the institution was established before coming into force of the constitution, the institution should have been established by persons residing in India and if insti-

tution is established after coming into force of the constitution it should be by Indian citizen. The petitioner institution has failed in this test and cannot claim the minority status. The approach of the founder is clearly seen to be a secular. College was never established for conserving the faith, religion, culture of Christianity in the State of Orissa. Stewart School was then established exclusively for Europeans, Anglo Indians and protestants unlike the present college which was established to fulfil the requirement of constituent college to form Utkal University and for upliftment of college education in the Orissa province in the judgment of 2005 (4) ESC 2489 (Allahabad) held that incorporated legal juristic entity cannot claim fundamental rights which are guaranteed by the Constitution in favour of citizens only. The right guaranteed under Article 30 of the Constitution of India is available to the citizens of India only.

Learned Counsel also submitted that even in the deed of transfer to trustee college does not form part of the schedule. The decision of the Hon'ble Single Judge was rendered on the basis of an erroneous contention, that this Commission has recognized minority status of college "established" and "administer" in Article 30(1) of the Constitution of India must be read conjunctively and this article gives the right to the minorities to administer an educational institution established by it. Diocese of Cuttack is managing the college by way of succession for more than last 4 decades. According to the management of the college, Cuttack is an extended branch of School Cuttack which was founded by Dr. William Day Stewart. Learned Single Judge has not only placed reliance on the order of this Commission which did not relate to college, but also has not taken note of conflicting and contradictory stands of the State Government and the Judgement passed in Writ Petition (C) No.



7762 of 2004 cannot be held to have finally determined the minority status of the petitioner institution. Government of Orissa re-constituted the governing body of the college vide letter dated 21.12.1972 for a period of 3 years. College was just like any other non government aided institution. This action was never challenged and attained finality. In the year 2004, Government again dissolved the management in exercise of power under rules of 1991. Challenge was made before Single Bench of High Court of Orissa, but Division Bench of Orissa, High Court held the judgement of single bench as per incuriam. The governing body is constituted of 13 members out of them 2 nominees are teacher representatives, one Vice Chancellor's nominee and other is Collector's nominee. It is a secular body and do not have a minority character.

Learned Counsel further submitted that the constitution of the college says that governing body shall ensure implementation of the provisions of the education act, rules and instructions issued by the Department or the Director, Higher Education. Management of the college admitted that though it voluntarily adopts the provisions of Orissa Education Act, 1969, but such voluntarily option will not affect its minority rights. In a fraudulent manner State Government has issued a letter dated 28.03.2014 purportedly recognizing the petitioner institution as minority institution. An affidavit on behalf of the Government of Orissa is totally supporting the case of the petitioner institution. This affidavit was filed in collusion with the Counsel Mr. Sangram Das, who belongs to Christian faith and whose wife is in the present governing body and also reader in the college. An application was filed to cross examine the deponent of the affidavit but this Commission has passed the order on 15.05.2013 deferring cross examination of Mr. Gagan Bihar Dhal. Thereafter none appeared

on behalf of the State Government. Then State Government issued a letter dated 28.03.2014 recognizing the petitioner institution as a minority institution, during pendency of this petition for grant of MSC as per the order of Division Bench of High Court of Orissa. The respondents no. 3 to 8 challenged the above communication dated 28.03.2014. Mr. Sangram Das, Advocate appeared in Writ Petition No. 9689 of 2014 on behalf of the State and after hearing at length above communication was stayed by the High Court of Orissa vide order dated 16.05.2014. Therefore, the Affidavit and documents filed by the State Government cannot be looked into this matter.

Learned Counsel for the respondents no. 3 to 8 further submitted that BMSC a company from London who established and managed the college even after enforcement of Constitution of India did not claim minority status. For 13 years foreign entity managed the college for all communities. College was established with financial aid from provincial government. The Stewart Science College was established for all communities and never for any minority community. Petitioner has taken contradictory stand at various stages. The petitioner in this case at one time claims that it had inherited the college by succession from BMSC and at another point of time it claims to have got the college from BCTA or CNITA through trustees (1957 to 1974) and by virtue of another purported arrangements from 1974 to 1996 sometimes it claims BMSC is the establisher and at other time it claims BCTA was the establisher of the college. Also at another time it claims a single philanthropic individual Rev. DT Robert who established the college and prayed that since the petitioner not being the establisher and in fraudulent manner adopt for getting MSC, the present petition is liable to be dismissed with heavy cost.



Learned Counsel Mr. Digambara Mishra, Advocate for the respondents no. 3 to 8 relied upon following citations :-

- (i) AIR 2004 SC 1295
- (ii) (1964) 6 SCR 885 (Tata Engineering and Locomotive Co. Ltd. and Others V/s The State and others)
- (iii) AIR 1992 SC 1630
- (iv) AIR 1970 SC 2079 (State of Kerala V/s Rev. Mother Provincial)
- (v) AIR 1968 SC 662 (Azeez Basha & Anr. V/s Union of India)
- (vi) AIR 1980 SC 1042 (All Saints High School, Hyderabad and Others V/s State of Andhra Pradesh etc.)
- (vii) AIR 1970 SC 259 (RT Rev. Bishop S.K. Patro V/s State of Bihar)
- (viii) AIR 1986 SC 1490 (A.P. Christian Medical Educational Society V/s Govt. of Andhra Pradesh and Others)
- (ix) 1992 1 KLJ 708 (RT Rev. K.C. Seth & Other V/s State and other) (Kerala High Court)
- (x) WP No. 10074 and 12018 of 1998 etc. decided on 09.09.1998 by the High Court of Madras (Raj Lakshmi Educational Trust and Others V/s Govt. of Tamil Nadu and Others)
- (xi) 2019 2<sup>nd</sup> Part AD Delhi 443 (Bara Inter College V/s Deputy Director, Minority Welfare Department and Others)
- (xii) (2013) 15 SCC 394 (Mr. Vinod Kumar Malviya and Others V/s Magan Lal, Magan Das Gamiti and others)

However, the Learned Counsel for the

interveners supported the contentions of the petitioner.

The Commission heard the arguments, perused the written submissions and citations of both the parties as well as interveners. The interveners have supported the contentions of petitioner institution. Article 30 (1) of the Constitution of India does not require that the whole community must have been involved in the establishment of the educational institution. It might be established even by a philanthropic individual with his own means in the interest of the minority community, it would be entitled to the protection of Article 30(1) of the Constitution of India. However the mere fact that the school/ college was founded by a person belonging to a particular religion did not make it a minority institution, as held in AIR 1958 SC 956 [in the case of Kerala Educational Bill] where funds, were obtained from abroad for assisting in setting up and developing the school/ college which was established by a minority in India, or that the management as is carried on at times by some persons who are not born in India, cannot be a ground to deny to the school/ college, the protection of Article 30(1) of the Constitution of India. In AIR 1970 SC 259 RT Rev. Bishop S.K. Patro V/s State of Bihar, the Hon'ble Supreme Court has ruled that a minority claiming privilege under Article 30 should be given to minority person/ persons residing in India. Foreigners not residing in India do not fall within the scope of Article 30(1) of the Constitution of India.

Article 30(1) of the Constitution of India guarantees all minorities based on religion or language the right to establish and administer institution of their own choice. The word "establish" means to bring into existence it does not necessarily connote construction of the institution by the minority. In AM Patroni V/s Assistant Educational Officer [AIR 1974 Kerala 197] where a school previously run by some

other organization was taken over by the church, which recognized and managed it, to cater to and in conformity with the school established by Roman Catholics. The school was held to have been established by the Roman Catholics for the purpose of Article 30(1) of the Constitution of India.

In case of Dr. Naresh Aggarwal V/s Union of India and others, (2005) 4 AWC 3745 the Allahabad High Court decided various issues relating to the minority status of the Aligarh Muslim University. On the issue of right to administer, the University by the members of the minority community, who are said to have founded the University, even after its incorporation the Court held that from Section 3 read with Section 13, 15, 16 to 22 of the AMU Act 1920, it is apparently clear that the administration of the University was vested in the officers and the Statutory Bodies, which were constituted under the Act itself, and at no point of time, the founders who had contributed to establish the University claimed any right to administer the same. The administration of the University has all along vested in the officers and the bodies continued under the statutory provisions itself. The Court said that Article 30 consists of two parts: (i) Right to establish, (ii) Right to administer. Both rights are to be read conjunctively. However, it does not necessary to follow that every time the citizens of minority community establishes an institution, they necessarily desire that the said institution must be administered by the members of the minority community only. It is always open to the founder members, who establish an institution to hand over the administration of the same, to person who may not belonging to the minority community and therefore, it is not always necessary that the right to administer the minority institution would follow automatically, once the institution is established by the minority. The right to administer depends upon

the wish and desire of the founder members and as a matter of fact, the members are willing to surrender the right of acquisition in favour of statutory authorities and bodies constituted under the Act.

Article 30(1) of the Constitution of India guarantees to all linguistic and religious minorities, the “right to establish” and the “right to administer” educational institution of their own choice. The word “establish” includes the right to bring into existence, while the right to administer an institution means the right to effectively manage and conduct the affairs of the institution. Thus, it leaves it to the choice of the minority to establish such educational institution will serve both purposes namely, the purpose of conserving their religion, language or culture and also for the purpose of giving thorough general education to their children in their own language. The right to conserve means the right to preserve and right to maintain. It needs to be highlighted that this Commission has passed an order dated 30.07.2018 in case of Chanderwati Educational and Charitable Trust that the petitioner institution was established in the first instance by the members of the non minority community and rejected the application for grant of MSC.

Thereafter petitioner institution Chanderwati Educational and Charitable Trust challenged the order of this Commission before Hon’ble High Court of Delhi by filing Civil petition bearing no. 4311 of 2019 and after hearing at length Hon’ble High Court of Delhi passed the following order on 11.09.2019 :-

*“Briefly, via the impugned order dated 30.07.2018, the National Commission for Minority Educational Institutions (in short “the Commission”) has rejected the application preferred by the petitioner for grant of minority status. The reason, briefly given in the order dated 30.07.2018 is that the institution was*



established in the first instance by the members of the non-minority community and it was only thereafter that it came to be administered by the members of the Jain minority community.

2. In support of the reasoning, which finds expression in the impugned order, recourse has been taken by the Commission to Section 2(g) of the National Commission for Minority Educational Institutions Act, 2004 (in short "2004 Act") and the judgement of the Supreme Court rendered in *S. Azeez. Basha & Anr. V. Union of India*, AIR 1968 SC 662. The Commission appears to be of the view that for grant of minority status, not only is the applicant institution required to be administered by a minority community but it should also be established by a minority community.

3. It is these circumstances the impugned order dated 30.07.2018 came to be passed, which was followed by an order dated 29.08.2018 rejecting the petitioner's application for review.

4. Mr. Shisodia, quite naturally, contends to the contrary. In support of his submissions, Mr. Shisodia has relied upon the judgement of the Supreme Court in the matter of *Sisters of St. Joseph of Cluny v. State of West Bengal & Ors.* (2018) 6 SCC 772 as also the judgement of the Karnataka High Court in *Dr. T.M.A. Pai Foundation v. State of Karnataka*, dated 10.09.1984 passed in W.P. (C) No. 12597/1984. Besides the aforementioned judgements, he also relies upon the judgement of the Kerala High Court dated 20.11.1973, passed in OP No. 1138/1973, in the matter of *Rt. Rev. Dr. Aldo Maria Patroni, S.J. and Anr. V. The Assistant Educational Officers and Ors.*

5. I have heard Mr. Shisodia as well as Ms. Ekta Sikri, Advocate, who appears on behalf of the respondent no. 2, the university.

6. The issue which arises for consideration in the present matter falls in a narrow compass. What is required to be considered is whether for grant of minority status, it is necessary that the initial establishment and thereafter its administration should be by a minority community. In this case, what emerges from the record is that the petitioner was established by a non-minority community and thereafter taken over, admittedly, by the Jain minority community.

7. The judgement of the Karnataka High Court in *T.M.A. Pai Foundation* sheds some light on the poser framed hereinabove.

After the above order this Commission has granted MSC in favour of the petitioner institution by order dated 07.11.2019.

By the above instance it is made clear that it does not necessary to follow that every time the citizens of minority community establishes an institution, they necessarily desire that the said institution must be administered by the members of the minority community only. It is always open to the founder members, who establish an institution, to hand over the administration of the same to person who may belong or not belong to minority community.

Relying upon the evidence adduced by the petitioner and the affidavit filed in support of the petitioner institution we find and hold that the establisher of the institution has legal right to hand over or transfer by any legal procedure, the administration of the institution to any person or group of persons who may belong or not belong to the minority community. It is not always necessary that the right to administer the minority institution would follow automatically once the institution is established by the minority. The right to administer depends upon the wish and desire of the estab-



lisher or founder of the institution. The case of the petitioner institution is that the Stewart Science College, Cuttack established in 1944 by the BMSC, London working in Orissa through its local committee. College was created out of the school. Both institutions continued to function as one management till 1946. The general body of the college was formed in the year 1946 and an account was also supported but one principal continued for both the institutions for some years. The college is managed by its governing body which is registered under Societies Registration Act. The college was established with an object to provide education especially in the field of science to boys and girls of all communities but primarily for the students of Christian minority community, a sound physical, intellectual and moral education upto graduation level. Vide registered deed of appointment to include trustees dated 12.12.1957, the BMSC had transferred the trusteeship of the properties of the school and college alongwith other properties to the BCTA to hold the said properties for the furtherance its object and purposes. The BMSC was a religious and charitable company registered in UK and was holding trust of churches and institution of the BMSC. The BMSC working in India prior to independence and was also registered in India. As per FERA Act, 1973, in the year 1973 foreign companies were restricted to hold property in India and prior to enactment of above act, there was no restriction for BMSC to hold property in India. So the deed of 1957 was valid in the eyes of law.

We have perused the citations produced by the learned counsel for both the parties and the settled position of law is very much clear that the minority institution is competent to claim protection under Article 30(1) of the Constitution of India, provide that the persons setting up educational institution must be resident

in India which includes foreigners residing in British India and the Native Indians prior to independence. BMSC, London having its registered office at Kolkata has established the college through Cuttack Station Committee of BMSC. As per the evidence and affidavit of the petitioner, the Christian missionaries of UK residing in India and the local Christian residents of Cuttack jointly started this college as a branch of Stewart School, Cuttack. The BMSC has appointed BCTA as the new trustee to hold the property of churches and institutions including the college and the Diocese of Cuttack being a constituent body of BCTA in Orissa as the sole successor of churches and institutions.

Learned Counsel for both the parties have invited our attention to the letters of the State Government Orissa and the affidavit and reply filed by the State in various proceedings including this petition. In the letter dated 18.03.1983, the Director of Public Instruction (Higher Education), Orissa addressed to the Secretary to Government of Orissa, Education Department clearly mentioned that the college and Christ College, Cuttack being minority institutions are not governed under Orissa Education Act, 1969 and the rules framed there under as those two institutions had been established and were being administered by the Christian minority. A copy of resolution dated 11.07.1984 passed by the Secretary to Government of Orissa, Education and Youth Services Department, given to the Principal of the College and Christ College for information stating that extension of retirement benefits to the employees of educational institution of their choice established and administered by minorities having the right under Article 30(1) of Constitution of India which are under the direct payment system of grant in aid. By the letter dated 05.02.1985, the Deputy Secretary to Government of Orissa,



Education and Youth Services Department addressed to the Director, Higher Education, Orissa, clarified that since the power of appointment of staff rest with the management formal approval will not infringe the rights guaranteed under Article 30(1) of the Constitution of India. Since the system of direct payment of full salary cost of the teaching and non-teaching staff has been made applicable to minority institution like college and Christ College, Cuttack, the management are to intimate the appointment and relief of the said staff to you under Article 133 of the Orissa Education Code. By the letter dated 27.07.2001, the Joint Secretary to Government of Orissa, Higher Education Department addressed to the Principal, Christ College and Stewart College has been informed that your college being managed by the minority community, the teaching staff of your college have not been included in the common transfer cadre, vacant for teaching staff of all aided colleges, copy/ copies of supporting orders to that fact under which the teaching staff of your college have been excluded from the common transfer cadre, may please be furnished to Government forthwith for further action.

Referring to the above letters Learned Counsel for the petitioner submitted that the Government of Orissa has recognized the Stewart Science College as a minority aided college and also placed reliance on the judgement of Hon'ble Supreme Court in the matter of N.Ammad Vs. Manager Emjay High School. He has also invited our attention to the reply filed in Writ Petition bearing No. 7762 of 2004 and Writ Petition No. 2207 of 2012 before the Hon'ble High Court of Orissa wherein the Government has admitted that the Stewart Science College has been recognized as minority institution by the Government. In the present case Mr. Gagan Bihar Dhal, Principal Secretary, Higher Education Department by filing

affidavit dated 01.10.2012 has admitted that the College has been treated / recognized by the State Government as an aided minority educational institution and protected under Article 30(1) of the Constitution of India. During pendency of this petition State Government has issued a letter dated 28.03.2014 and recognized the petitioner institution as minority institution which was challenged by the respondents by filing writ petition and Hon'ble High Court of Orissa has stayed the above communication dated 28.03.2014. Interveners have also relied on the above letters and taken stand that they have joined the college fully knowing that college is a minority institution, because staff of college are not included in the common cadre of aided colleges of Orissa. Respondent No. 3 to 8 were also appointed by the governing body of the college and never transferred in their service career because college is a minority institution and not included in the common cadre. A series of correspondence were made between the Government and the college to decide to include the college in common cadre or not. Option were sought and sent to the Government and finally the matter was set at rest. School was founded by the enterprise and generosity of Dr. William Day Stewart, a Christian resident Indian and civil surgeon of Cuttack and the college was established as a branch of school. Thereafter on 20.12.1946 governing body was formed for the college and members of governing body who met for the first time were resident Indians and native Indians. Respondents Dr. Shyamal Kumar Saha and Shri Nishikant Kar are bound by their conduct and estoppel to say that college is not a minority institution. Constitution of College clearly shows that college is a minority institution. Respondents no. 3 to 8 now after retirement from their services are misleading and trying to disturb the minority character of the college. This Commission has

passed the order on dated 11.09.2007 when the school out of which college came into existence have been declared as minority institution then in the interest of justice and the principal of justice, equity and good conscience. Petitioner institution should be treated as minority institution.

We have also considered the issue relating to the Principal of “estoppel” by the conduct of Dr. Shyamal Kumar Saha and Shri Nishikant Kar. It is not disputed that Dr. Shyamal Kumar Saha and Shri Nishikant Kar had signed the registered constitution of rules and regulations of the governing body of the college as witnesses. It means the facts of establishment and ownership of properties of the college are within the knowledge of Dr. Shyamal Kumar Saha and Shri Nishikant Kar but they have no objection at the time of signing the above document. Hence they are estopped to object the same. Pursuant to the gazette notification dated 28.02.2003 the governing body of the college was registered with Registrar of Societies, Orissa registering the old constitution of the college and Dr. Shyamal Kumar Saha and Shri Nishikant Kar have signed the memorandum of society being the members of governing body of the college as staff representatives and admitted that the college is a minority institution. Minutes of the governing body of the college dated 10.08.2004 and 31.01.2005 shows the presence of Dr. Shyamal Kumar Saha and Shri Nishikant Kar and also signed being the staff representative and challenged the action of the State Government. Pursuant to the query of ADM, Cuttack by letter dated 24.07.2004 vide resolution no. 11 of 2004 college has resolved that 21% of the total seats in the first year of plus 2 and 3 classes respectively be reserved for students of Christian minority community securing at least 55% of marks and aggregate for the 1<sup>st</sup> year of plus 2 class and 45% marks

in aggregate for first year of plus 3 classes and in the event of any vacancy remaining reserve seat will go to the general candidates on the basis of merits. Being staff representatives Dr. Shyamal Kumar Saha and Shri Nishikant Kar were present and signed the minutes, hence they are estopped to say that the college is not a minority institution.

Learned Counsel for the respondent no. 3 to 8 raised four issues for adjudication by this Commission. First issue suggested by the respondent no. 3 to 8 is whether the educational institution college was established by member/ members of religious minority residing in India? The Answer is “Yes”. The Stewart Science College was established by the BMSC, London, working in Orissa through its local committee. As per the law established by Hon’ble Supreme Court that a minority claiming privilege under Article 30(1) of Constitution of India should be minority in person residing in India, foreigners not residing in India do not fall within the scope of Article 30(1) of the Constitution of India. In the present case the petitioner institution had proved that the institution was established by the Christian minority residing in India out of 12 members of BMS Cuttack Station Committee who were the management of the school and college and other missionary schools 6 were foreigners residing in India and 6 were native Indians. The 2<sup>nd</sup> issue suggested by the Learned Counsel for the respondent no. 3 to 8 is whether the educational institution was established for the benefit of minority community? The Answer is “Yes” because the college is managed by its governing body which is registered under Society Registration Act and was established with an object to provide education especially in the field of science to boys and girls primarily for the students of Christian minority community upto graduation level. We have earlier demonstrated that the establisher of the insti-



tution has legal rights to transfer or hand over by legal procedure, the administration of the institution to any person or group of persons, who may belong or not belonging to minority community. The 3<sup>rd</sup> issue raised by the Learned Counsel for the respondent no. 3 to 8 is whether the instant society has any semblance of rights to administer the educational institution? The answer of this question is also “Yes” because as demonstrated earlier Article 30(1) of the Constitution of India consists in 2 part, first is right to establish and second is right to administer. Both rights are to be read conjunctively, however, it does not necessary to follow that every time the citizens of minority community establishes an institution, they necessarily desires that said institution must be administered by the members of the minority community only. It is always open to the founder members, who establish an institution to hand over the administration of the same to person who may not belonging to minority community and therefore it does not always necessary that the right to administer the minority institution would follow automatically, once the institution is established by the minority. The right to administer depend upon the wish and desire of the founder members and as a matter of fact the right to administer had been willing surrender in favour of the society. The establisher/ founder of the institution had legally transfer the administration of the institution in favour of the governing body of the college, which is now registered under Society Registration Act. So the governing body of the society has legal right to administer the college. The last and the 4<sup>th</sup> issue suggested by the Learned Counsel respondent no. 3 to 8 is if the person claimant is not the establisher of the college whether it has got any right to administer the same? The answer of this issue is also “Yes” as we have earlier demonstrated that establisher/ founder of the college

had transferred the trusteeship of the properties of the college and school to BCTA. Prior to transfer holding body was the BMSC and the management were by the then provincial body of Orissa namely UCCCC and in the year 1970, UCCCC ceased to exist as it was merged with the CNI. The Diocese of Cuttack being a consisting body of the BCTA in Orissa or the sole successor of the Churches and institutions so if the present claimant of the college is not the founder / establisher of the petitioner institution even then it has right to administer the institution.

This Commission has held in Case No. 1320 of 2009 of Buckley Primary School V/s The Principal Secretary to Government, School and Mass Education Department, Government of Orissa decided on 06.07.2010 that the identifying criteria of fixation of the percentage by the State Government, Governing admission of minority community in a minority educational institution cannot be included in the criteria of determining the minority status of such an institution.

Relying upon the documentary evidence adduced and affidavit filed on behalf of the petitioner institution we find and hold that the Stewart Science College, Cuttack, Orissa run and administered by the governing body of the Stewart Science College, Cuttack is eligible for grant of minority status on religious basis. The evidence also proves that the said educational institution is established with the main objective of sub-serving the interests of the Christian minority Community. Consequently, Stewart Science College, Cuttack, Orissa is declared as a minority educational institution covered under Article 30 (1) of the Constitution of India within the meaning of Section 2(g) of the National Commission for Minority Educational Institutions Act, 2004. A minority status certificate be issued accordingly subject



to the condition that the petitioner would file an affidavit of undertaking to the fact that the petitioner institution shall not deny admission to the eligible candidates of the Christian minority community subject to the eligibility of the students and availability of the accommodation in the school.

Office was directed to return the documents which are in sealed cover to the Learned Counsel for the respondent no. 1 & 2 / State Government of Orissa.

In view of the above, the petition was disposed in accordance of the order.

#### **6.4 CASE NO. 147 of 2020**

**Subject: Application for seeking minority status certificate by Teerthanker Mahaveer University, Moradabad (Uttar Pradesh), Delhi Road, Moradabad, Uttar Pradesh.**

**Applicant: Teerthanker Mahaveer University, Moradabad (Uttar Pradesh), Delhi Road, Moradabad, Uttar Pradesh.**

**Respondent: Principal Secretary, Higher Education, Department of Education, Government of Uttar Pradesh, Bahu Khandi, Secretariat, Lucknow, Uttar Pradesh- 226 001.**

The order was pronounced on 10.12.2020. Teerthanker Mahaveer University, Delhi Road, Moradabad, Uttar Pradesh (hereinafter referred to as University) applied for grant of MSC on the ground that the same has been founded/ established by Teerthanker Mahaveer Institute of Management and Technology Society, Uttar Pradesh registered under Societies Registration Act, 1860, constituted by members of the Jain community and

incorporated under the Teerthanker Mahaveer University Uttar Pradesh Act, 2008 (U.P. Act No. 30 of 2008). It is also affirmed by the petitioner that the University is being administered by the members of the Jain community and especially meant for the benefit of the Jain minority community boys and girls and as such it is entitled to be declared as MEI within the meaning of Section 2(g) of the National Commission for Minority Educational Institutions (NCMEI) Act, 2004.

The Commission heard the authorized representative appearing on behalf of the petitioner University and perused the record, documentary evidence and affidavit of the Chairman of Teerthanker Mahaveer Institute of Management and Technology Society.

The first main question which arises for consideration is that, who has founded/ established the University? The answer to this question lies in the provisions of the Teerthanker Mahaveer University Uttar Pradesh Act, 2008 (U.P. Act No. 30 of 2008).

A bare reading of provisions of the University, makes it clear that it was founded/ established by Teerthanker Mahaveer Institute of Management and Technology Society (hereinafter called as Society) with the object for encouraging private sector to participate in the field of higher and technical education and to open college to impart technical education and to provide financial assistance to the needy minority community students in particular and others in general. It is also mentioned in the Memorandum of Association of the Teerthanker Mahaveer Institute of Management and Technology Society that the character of the institution shall be a minority institution. Section 3(1) of the University Act lays down that "there shall be established at Moradabad in Uttar Pradesh, a University by the Society, in the name of Teerthanker



Mahaveer University, Uttar Pradesh. The Act is to establish and incorporate a Jain Minority Teaching University sponsored by Teerthanker Mahaveer Institute of Management & Technology Society, Moradabad, Uttar Pradesh.

The State Government has clearly admitted that the University has been established and is being administered by the Jain minority community. Even the Governor of Government of Uttar Pradesh has given permission to start functioning of the University. It is relevant to mention that from the language of Article 30(1) of the Constitution of India, it is clear that it enshrines a fundamental right of the minority educational institution to manage and administer their institutions which are completely in consonance with the secular nature of our constitution itself. Consequently, the Commission found and held that the Teerthanker Mahaveer University, Moradabad has been established and is being administered by the Jain minority community.

Reservation of seats in any minority educational institution is an inevitable corollary of the fundamental right enshrined in Article 30(1) of the Constitution. It has been held by the Supreme Court in *Ahmedabad St. Xavier's College Society Versus State of Gujarat*, AIR 1974 SC 1389 that the minorities are given the constitutional protection under Article 30(1) of the Constitution in order to preserve and strengthen the integrity and unity of the country. Thus Article 30(1) is an article of faith and the whole object of conferring the right on the minorities under this article is to ensure that there will be equality between the minority and majority. If the minority do not have such constitutional protection, there will be a denied equality. For a progressive and enlightened democracy, it is necessary that all sections and classes of people are well equipped to shoulder the responsibility of a free nation. It ap-

pears that the Teerthanker Mahaveer University, Moradabad has provided reservation for the Jain minority community in order to achieve the said object. Needless to add here that, the sphere to general and secular education is intended to develop commonness among the boys and girls of our country. This is the true spirit of liberty, quality and fraternity through the memorandum of education.

Thus the conspectus of the provisions of the University Act clearly indicates that the University is a minority educational institution within the meaning of Article 30(1) of the Constitution. Jain minority community had striven for, and obtained, the establishment of the University primarily for the benefit of its community and endowed with considerable property and money. Consequently, we find and hold that primarily the beneficiaries of the University are members of the Jain minority community. It is also relevant to mention here that the State of Uttar Pradesh legislature has again reiterated its intention to treat/ declare the University as a minority educational institution by passing the Teerthanker Mahaveer University Uttar Pradesh Act, 2008 (U.P. Act No. 30 of 2008).

Petitioner has also applied to this Commission for grant of Minority Status Certificate but the case was disposed of being the University created under the U.P. Act No. 30 of 2008 by the Government of Uttar Pradesh. This Commission has passed orders in favour of petitioner institution to grant minority status certificate in Case No. 1696 of 2012 dated 28.5.2013 and also Case No. 329 of 2019 in 24.9.2019. Hence, in our considered view, the petitioner institution is also entitled for minority status certificate from this Commission with the principle of justice, equality and good conscience.

For the aforesaid reasons, the Commis-



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sion found and held that the Teerthanker Mahaveer University, Moradabad (Uttar Pradesh), Delhi Road, Moradabad, Uttar Pradesh is a minority educational institution covered under Article 30 of the Constitution of India within the meaning of Section 2(g) of the

National Commission for Minority Educational Institutions Act, 2004. A minority status certificate be issued accordingly.

In view of the above, the present petition was disposed of in accordance with the order.



## CHAPTER 7:

# Cases Regarding Deprivation of Rights of Minority Educational Institutions and Affiliation To Universities

Under Article 30 (1) of the Constitution, religious or linguistic minority has a right to establish and administer educational institutions of its choice. The right however is subject to the regulatory powers of the State to maintain and facilitate excellence in educational standards. In T.M.A. Pai Foundation vs. State of Karnataka (2002) 8 SCC 481 case, the 11-judge bench of the Supreme Court, explained the rights of minorities to establish and administer an educational institution of their choice unhampered by rules and regulations that unnecessarily impinge upon their autonomy. The right to establish and administer broadly comprise of the following rights:-

- to admit students;
- to fix a reasonable fee structure;
- to constitute a governing body;
- to appoint staff (teaching and non teaching); and
- to take action if there is dereliction of duty on the part of any of the employees.

It was held that the minority institutions could not be allowed to fall below the standards of excellence expected of an educational institution. The Court stated that while the

management must be left to minority they may be compelled to keep in step with others. The right to administer, not being absolute, there could be regulatory measures for ensuring educational standards and maintaining excellence thereof, and it is more so in the matter of admissions to professional institutions.

The Hon'ble Court of the Commission takes cases of deprivation of rights of MEIs including their affiliation to Universities of their choice. During the year, following cases was considered/decided by the Commission with regard to affiliation of a college to a University:

### 7.1 CASE NO. Misc 12 of 2020

**Subject:** Application for seeking adjudication of dispute regarding affiliation in terms of the section 12(a) read with Section 10(a), 11(b), 11(f) & 11(h) of the NCMEI Act, 2004.

**Complainant:** Shri Balwant Institute of Technology, Meerut Road, Pallri, Near DPS, Sonapat, Haryana-131001 run by Chandrawati Educational and Charitable Trust, AG-16, Ring Road, Shalimar Bagh, Delhi.

**Respondent:** 1.1. Guru Gobind Singh Indraprastha University,



**Sector -16C, Dwarka, New Delhi. 2. All India Council for Technical Education, Nelson Mandela Marg, Vasant Kunj, New Delhi-110070. 3. The Finance Commissioner & Principal Secretary, Education Deptt., Govt. of Haryana, Civil Secretariat, Chandigarh, Haryana**

The order was pronounced on 26.11.2020. An application alongwith affidavit and documents was received on 20.03.2020 from Secretary of the Chanderwati Educational and Charitable Trust for Shri Balwant Institute of Technology, Meerut Road (Pallri), Sonapat, Haryana-131001 to direct the Guru Gobind Singh Indraprastha University, Sector 16-C, Dwarka, New Delhi-110075 (hereinafter referred to as GGSIPU) to proceed in their application of affiliation in accordance with the law without insisting on any NOC from the State of Haryana. Hon'ble Court of the Commission heard Advocates for the petitioner institution as well as the Respondent No. 1, GGSIPU and perused the record, documentary evidence, copy of application dated 22.09.2017 for grant of NOC, copy of reminder of above application dated 20.12.2018, copy of interim order dated 09.05.2019 passed by Hon'ble High Court of Delhi in Writ Petition No. 4311 of 2019, copy of order dated 11.09.2019 alongwith order dated 23.09.2019 passed by the Hon'ble High Court of Delhi in Writ Petition No. 4311 of 2019, copy of application of preferred by the applicant before this Commission on 10.10.2019, copy of order dated 07.11.2019 passed by this Commission in case no. 75 of 2018, copy of recognition order granted by All India Council for Technical Education (hereinafter referred to as AICTE) in favour of the applicant institution dated

25.04.2019, copy of letter dated 29.01.2020 sent to applicant issued by GGSIPU, copy of advertisement issued by GGSIPU dated 25.02.2019, copy of intimation of extension of last date to 19.03.2020 issued by GGSIPU dated 13.03.2019, copy of order passed by this Commission in case no. 2704 of 2012, Appeal No. 02 of 2013, case no. 321 of 2015 and in case no. 1301 of 2016.

Learned Counsel for the petitioner institution submitted that applicant sought to invoke the original jurisdiction of this Commission due to arbitrary conduct of the respondents. On dated 22.09.2017 applicant had applied to respondent no. 3, State of Haryana for grant of NOC. A reminder was also given to the State on dated 20.12.2018. But there was a complete decision regarding the said applications. Therefore, applicant moved application before this Commission for grant of minority status certificate (hereinafter referred to as MSC) which was rejected vide order dated 30.07.2018 by this Commission. Review application filed by the applicant was also dismissed vide order dated 16.04.2019. Aggrieved by above orders applicant filed a writ petition before the Hon'ble High Court of Delhi which remanded the matter to this Commission vide judgement and order dated 11.09.2019 for deliberating on the grant of the status of minority to the petitioner institution and had also directed to deliberate within four weeks from the date of receipt of copy of order and also directed the respondent no. 1, GGSIPU to deliberate on the affiliation in accordance with the rules and regulations. Thereafter, hearing both the parties, this Commission vide order dated 07.11.2019 hold and declared applicant institution a minority educational institution covered under Article 30 of the Constitution of India within the meaning of Section 2(g) of the National Commission for Minority Educational Institutions Act, 2004.



Learned Counsel for the petitioner institution submitted that AICTE is the body which governs the field of technical education. Petitioner institution had received a valid recognition for the courses from AICTE on dated 25.04.2019. Affiliating University (GGSIPU) on dated 29.01.2020 issued a letter claiming a requirement of NOC from the State Government/ Minority Commission with specific number of seats. Learned Counsel for the applicant institution submitted that such a requirement is specious and not supported by law laid down by the Hon'ble Apex Court. The present petition raises a dispute with respect to affiliation under section 12 read with Section 10(A), 11(b), 11(f) and 11(h) of the NCMEI Act, 2004 and this Commission has power to decide above question of affiliation. Learned Counsel for the applicant further submitted that respondent no. 1, GGSIPU is insisting on NOC from the State of Haryana or from by this Commission but said requirement is nonest in the eyes of law as held by a catena of judgements of constitutional Courts. The State has no power to grant any such NOC; this situation had arising before this Commission in case Appeal No. 2 of 2013 (Mahavir Swami Institute of Technology, Village Jagdishpura, Near OP Jindal University, District Sonapat, Haryana V/s Finance Commissioner and Principal Secretary, Department of Technical Education, Government of Haryana, New Secretariat, Sector 17, Chandigarh), wherein State of Haryana informed this Commission by letter dated 27.02.2013 that as per the guidelines issued by the State Government vide memo no. 1/66-2003 Co. (3) dated 25.09.2006, the concerned institution "has a right of seeking affiliation with any affiliating body of their own choice". In this regard, this Commission has also previously decided cases and also granted NOC to the minority institutions. Hon'ble Apex Court in its judgement (2015) 11 SCC 291 (Rungta Engineer-

ing College V/s Chattisgarh Swami Vivekanand Technical University) held that under the scheme of AICTE Act 1987, under section 10 of the Central Act, the Council is entrusted with the power to lay down norms and standards of courses etc. and further held that in these matters the University will have no authority. Learned Counsel for the petitioner institution further alleged that requirement of NOC cannot be insisted for the given number of seats. Seats are decided on a year to year basis by AICTE. There is no such requirement of any NOC under the Indraprastha Vishwavidyalaya Act, 1998 under which GGSIPU was established. After coming into operation of Central Act the provisions of University Act or State Act would be deemed to have become unenforceable. Hon'ble Apex Court in Jaya Gokul Educational Trust V/s Commissioner and Secretary to Government, Higher Education Department, (2000) 5 SCC 231 at Page 243) held that the University ought to have considered the grant of affiliation on the basis of permission granted by AICTE and other relevant factors in the University Act or status which are not inconsistent with the AICTE Act or its regulations. Hon'ble Apex Court in State of Maharashtra Vs. Sant Dnyaneshwar Shikshan Shastra Mahavidyalaya (2006) 9 SCC 1 at page 33 held that NOC is not required. It is also alleged that the petitioner college is entitled for grant of affiliation from the GGSIPU. Learned Counsel for the petitioner placed reliance on Indraprastha Vishwavidyalaya Act 1998 and the All India Council for Technical Education Act, 1987 case of Sisters of St. Joseph of Cluny Vs. State of West Bengal & Ors. (2018) 6 SCC 776, State of Maharashtra Vs. Sant Dnyaneshwar Shikshan Shastra Mahavidyalaya (2006) 9 SCC 1, Jaya Gokul Educational Trust V/s Commissioner and Secretary to Government, Higher Education De-

partment, TVT, Kerala State &Ors. (2000) 5 SCC 231, Rungta Engineering College V/s Chattisgarh Swami Vivekanand Technical University (2015) 11SCC 291 and State of Tamil Nadu and Others V/s Adhiyaman Educational and Research Institute and Others (1995) 4 SCC 104.

On the other hand, the petition was resisted by the respondent no. 1, GGSIPU on the ground that the petition is not maintainable because the petitioner institution is situated in the State of Haryana and as per Clause 3 (ii) (b) of statute 24 of the GGSIP University, the Institute is required to submit No Objection Certificate (NOC) from the concerned State, to process their application for affiliation alongwith other necessary conditions. It is also alleged by the learned counsel for the respondent no. 1 that the virus/ requirement of NOC was challenged before the division bench of High Court of Delhi in a batch of petitions, which was upheld vide judgement dated 27.08.2012 in the matter of State of Haryana V/s Global Education and Social Trust and Others (2012 SCC Online Del 4437). Learned Counsel for the respondent no. 1 also relied on the Apex Court judgement (2011) 4 SCC 257, Chairman Bhartia Education Society V/s State of Himachal Pradesh and submitted that the process of affiliation cannot be of an automatic rubber stamping once approval by NCTE is given. It is further submitted that the reliance of petitioner on the judgement of Jaya Gokul Educational Trust case (Supra) is totally uncalled and not applicable in the facts of the instant case and the same was also distinguish by the Hon'ble Division Bench of Delhi High Court in the matter of Gokul Educational and Social Trust (Supra).

The petition was resisted by the respondent no. 3 State of Haryana on the ground that the Chandrawati Education and Charitable

Trust, Delhi running an educational institution namely Shri Balwant Institute of Technology, Meerut Road (Pallri), Sonapat, Haryana131001 is an Engineering College approved by AICTE, New Delhi and affiliated with Deen Bandhu Chhotu Ram University of Science and Technology, Murthal, Sonapat, Haryana and has never submitted any application to the respondent no. 3 for grant off NOC for affiliation. Learned Counsel for the respondent no. 3 further submitted that the State Government has taken decision by guidelines regarding granting of affiliation that none of the institutions/ colleges located in the State of Haryana shall be allowed to seek affiliation from a University located outside the State. The cases already filed in the Hon'ble High Court of Delhi against the orders of this Commission for affiliation with GGSIPU, Delhi against 6 institutions. Learned Counsel for the respondent no .3 requested that NOC to institution/ Trust may not be granted for affiliation with GGSIPU, Delhi and petitioner institution/ college can seek affiliation with any affiliating University within the State of Haryana.

Having heard the Learned Counsel for both the parties, at the outset, the Commission made it clear that this Commission has been created under an Act of Parliament to facilitate exercise of the educational rights of minorities enshrined in Article 30 of the Constitution of India. The Commission shall have jurisdiction to decide the dispute relating to affiliation of colleges covered under Article 30(1) of the Constitution of India. It becomes clear that the NCMEI Act, 2004 is intended to create a new dispensation for expeditious disposal of cases relating to grant to affiliation by the affiliating Universities, violation/ deprivation of educational rights of minorities enshrined in Article 30 of the Constitution, determination of minority status of an educational institution and grant of NOC etc. This Com-



mission is a quasi judicial tribunal and it has been vested with the jurisdiction, powers and authority to adjudicate upon the disputes relating to grant, affiliation of the college, covered under Article 30 of the Constitution. Article 30 of the Constitution gives the minorities a fundamental right to establish and administer educational institution of their choice. The rationale behind Article 30 of the Constitution is to give protection to minorities to run educational institution of their choice. These rights are protected by a prohibition against their violation and are backed by a promise of enforcement. The protection is contained in Article 30 which bars the State for making any law rule and regulation abridging or limiting any of the fundamental rights guaranteed under Chapter 3 of the Constitution and threatens to vitiate any law rule or regulation found inconsistent. Article 30 (1) of the constitution includes within its scope, the right to claim affiliation for and/or recognition of minority educational institutions. The Hon'ble Supreme Court in Kerala Education Bill held that true import of Article 30(1) of Constitution would mean the right to establish effective educational institution which may serve the real, need of the minorities and the scholars who resort to them. Article 30(1) will have its complete effect when the institution established by the minorities are given recognition and affiliation, without which the institution cannot play their effective role and the right conferred on the minorities under the said article would be denied of much of its efficacy. Thus the recognition of the institution established by the minority is as important as any other institution. The key to the understanding of the true meaning and implication of the Article under Constitution are the words "of their choice". It is said that the content of that Article is as wide as the choice of the particular minority community may make it. In the case of St. Xaviers College, Ahmedabad V/s

State of Gujarat, 1974 (1) SCC 714 / (AIR 1974 SC 1389) their lordships of Hon'ble Supreme Court attributed the real reason for Article 30(1) of the Constitution that affiliation must be a real and meaningful exercise of right for minority institutions in the matter of imparting general secular education. Any law which provides for affiliation on terms which will involve abridgment of the right of linguistic and religious minorities to administer and establish educational institutions of their choice will offend Article 30(1). The educational institutions set up by minorities will be robbed of their utility if boys and girls cannot be trained in such institutions for university degrees. Minorities will virtually lose their right to equip their children for ordinary careers if affiliation be on terms which would make them surrender and lose their rights to establish and administer educational institutions of their choice under Article 30. The primary purpose of affiliation is that the students reading in the minority institutions will have qualifications in the shape of degrees necessary for a useful career in life. The establishment of a minority institution is not only ineffective but also unreal unless such institution is affiliated to a University for the purpose of conferment of degrees on students." It has been held in T.M.A. Pai Foundation (case) that affiliation and recognition has to be available to every institution that fulfills the conditions for grant of such affiliation and recognition. In St. Stephen College V/s University of Delhi (1992) 1 SCC 558 the Hon'ble Supreme Court has observed that the word "of their choice" in Article 30(1) leave vast option to the minorities in selecting to type of educational institutions which they wish to establish. They can establish institutions to conserve their distinct language, spirit or culture or for imparting general secular education or for both the purposes. An educational institution cannot be a possible hope to sur-



vive and function effectively without affiliation, nor it can confer degree without affiliation to a University. Article 30(1) is intended to enlist confidence in minorities against any executive or legislative encroachment of their right to establish and administer educational institutions of their choice. Article 30(1) though styled as a right is more in the nature of protection for minorities and it was enacted as a guarantee to the minorities. No Government can destroy the said fundamental right under the grab of a policy decision.

Recognition is a facility, in managing board of the Milli Talimi Mission, Bihar and others V/s State of Bihar and Others 1984 (4) SCC 500, the Hon'ble Apex Court has clearly recognized that running a minority institution is also as fundamental and important as other rights conferred on the citizens of the country. If the State Government declines to grant recognition or a University refuses to grant affiliation to a minority educational institution without just and sufficient grounds the direct consequence would to destroy the very existence of the institution itself. Thus, refusal to grant recognition or affiliation by the statutory authorities without just and sufficient grounds amount to violation of the right guaranteed under Article 30(1) of the Constitution. Although Article 30(1) of the Constitution does not speak for the conditions under which the minority educational institution can be affiliated to a University, yet the article by its very nature implies that where an affiliation is asked for the University concerned cannot refuse the same without sufficient reasons or try to impose such conditions is would completely destroy the autonomous administration of the educational institutions. It is beyond controversy that the petitioner college is a minority educational institution covered under Article 30(1) of the Constitution and College of Engineering and Technology of the State of

Haryana established by the Jain Community. It is also undisputed that petitioner institution has been approved by the AICTE by the letter dated 25.04.2019 for the academic year 2019-20. Pursuant to the above recognition, the petitioner institution applied to the GGSIPU for grant of affiliation. On dated 29.01.2020, the affiliating University has issued a letter claiming a requirement of NOC from State Government / Minority Commission with specific number of seats. AICTE is the regulatory authority for technical education and in such a case the role of the University or affiliating authority is limited to the extent of granting affiliation on the basis of the approval granted by the AICTE for starting courses. The University cannot sit over the orders of the AICTE for number of seats. None of the said authority can assume the role of the controlling authority of the AICTE. In the present case respondent no. 1 has attempted to transgress their jurisdiction. After receiving the petitioners application for grant of the affiliation, Respondent No. 1 issued letter dated 29.01.2020 subject to the condition grant of NOC by the State Government/ Minority Commission with specific number of seats. This is legally impermissible because AICTE is the only regulatory authority for the technical education and for intake capacity approval. The State cannot restrict NOC for seats because the seats are sanctioned by the AICTE. State and University cannot act in contravention of the AICTE Act and regulations as held by Hon'ble Apex Court in its judgment (2015) 11 SCC 291 Rungta Engineering College V/s Chattisgarh Swami Vivekanand Technical University (CSVTU).

Firstly, it is made clear that there is no provision to grant NOC by this Commission to the minority educational institution after giving minority certificate to the institution. Provisions of Section 10 of NCMEI Act, 2004 are



for the State for grant of NOC before the grant of minority status to the institution by this Commission. Section 10 of the NCMEI Act, provides for “Right to establish a Minority Educational Institution :- (1) Subject to the provisions contained in any other law for the time being in force, any person, who desires to establish a Minority Educational Institution may apply to the competent authority for the grant of no objection certificate for the said purpose.” (2) The Competent authority shall,— (a) on perusal of documents, affidavits or other evidence, if any; and (b) after giving an opportunity of being heard to the applicant, decide every application filed under sub-section (1) as expeditiously as possible and grant or reject the application, as the case may be: Provided that where an application is rejected, the Competent authority shall communicate the same to the applicant. (3) Where within a period of ninety days from the receipt of the application under subsection (1) for the grant of no objection certificate,— (a) the Competent authority does not grant such certificate; or (b) where an application has been rejected and the same has not been communicated to the person who has applied for the grant of such certificate, it shall be deemed that the Competent authority has granted a no objection certificate to the applicant. (4) The applicant shall, on the grant of a no objection certificate or where the Competent authority has deemed to have granted the no objection certificate, be entitled to commence and proceed with the establishment of a Minority Educational Institution in accordance with the rules and regulations, as the case may be, laid down by or under any law for the time being in force. Explanation — For the purposes of this section — (a) “applicant” means any person who makes an application under sub-section (1) for establishment of a Minority Educational Institution; (b) “no objection certificate” means a

certificate stating therein, that the Competent authority has no objection for the establishment of a Minority Educational Institution”. Section 10(A) of the NCMEI Act, 2004 states that :- “Right of a Minority Educational Institution to seek affiliation.— (1) A Minority Educational Institution may seek affiliation to any University of its choice subject to such affiliation being permissible within the Act under which the said University is established. (2) Any person who is authorized in this behalf by the Minority Educational Institution, may file an application for affiliation under sub-section (1) to a University in the manner prescribed by the Statute, Ordinance, rules or regulations, of the University: Provided that such authorized person shall have right to know the status of such application after the expiry of sixty days from the date of filing of such application.”

Above provisions of Section 10(A) confers right on a minority educational institution to seek affiliation to any University of its choice, subject to such affiliation being permissible within the Act under which the said University is established. Section 4 of the GGSIPU Act, 1998 which is relevant for the purposes, provides for:- Jurisdiction (1) “Save as otherwise provided by or under this Act, the limits of this area within which the University shall exercise its powers, shall be those of The National Capital Region as defined in the National Capital Region Planning Board Act, 1985 (2 of 1985). (2) No college or institution situated within the jurisdiction of the University shall be compulsorily affiliated to the University, and affiliation shall be granted by the University only to such college or institution as may agree to accept the Statutes and the Ordinances”. In terms of Section 4 of the GGSIPU Act, affiliation of an educational institution within the territorial limit of the National Capital Region (NCR) is permissible. It is undisputed that Sonapat is within



the territorial limit of the NCR as defined in the NCR Planning Board Act, 1985. The petitioner college which is located within the territorial limits of NCR has a right to seek an affiliation to the GGSIPU.

It is an admitted fact that GGSIPU is an affiliating University and was established in 1998 by the Government of NCT, Delhi under the provisions of GGSIPU Act. The requirement of NOC as stated in Clause 3 (ii) (b) of Statute 24 of GGSIPU from concerned State Government for affiliation was challenged before the Division Bench of Hon'ble High Court of Delhi in a batch of petitions and vide common judgement in the matter of State of Haryana V/s Global Education and Social Trust (2012) SCC Delhi 4437, in the said judgement the observations is that the refusal of the Government of Haryana and Uttar Pradesh to issue NOC cannot be said to be arbitrary. The local laws of the respective States do not permit colleges / institutions located therein to be affiliated to any University other than the respective State Universities. The refusal is thus in consonance with local laws to which there is no challenge.

In considered opinion of the Commission the above decision of Hon'ble High Court of Delhi does not apply to the case in hand because petitioner institution is a minority educational institution and as per the letter of State Government dated 27.02.2013. Any policy decision of the State Government cannot destroy the said legal right accruing from the Section 10(A) of the NCMEI Act, 2004. It is also relevant to mention here that the college / institution in Writ Petition (C) No. 1566/12 was granted affiliation by GGSIPU when it was located in rented premise in Delhi, but has now set up campus at Murthal District, Sonapat, Haryana and seeking permission of GGSIPU to shift. As per the Learned Counsel for the

petitioner institution, State of Haryana has no power to grant any such NOC, this situation has arisen in a case of Appeal No. 02/2013 (Mahavir Swami Institute of Technology, Village Jagdishpura, Near OP Jindal University, District Sonapat, Haryana V/s Finance Commissioner and Principal Secretary, Department of Technical Education, Government of Haryana, New Secretariat, Sector 17, Chandigarh) before this Commission wherein the following intimation dated 27.02.2013 from the State of Haryana was taken note of Financial Commissioner & Principal Secretary to Govt. Haryana Higher Education Department, Panchkula To Secretary National Commission for Minority Educational Institutions, Government of India Gate No. 4, First Floor, Jeevan Tara Building, Patel Chowk, Parliament Street, New Delhi – 110001 Memo No. 01/71-2011 Coord. (3) Dated, Panchkula, the 27.02.2013 Subject: Bhagwan Mahavir College of Education, Village, Jagdishpura, Near O.P. Jindal University, Sonapat V/s Principal Secretary to Govt. Haryana, Education Department– Regarding grant of NOC for affiliation the hearing was on 28.02.2013 at 11.00 am. Kindly refer to your notice issued vide F.No. 381/2013/1808 dated 19.02.2013 on the subject cited above. In reference to your aforesaid notice it is hereby submitted that the State Government is not the competent authority to issue / grant No Objection Certificate to the institution named as 'Bhagwan Mahavir Education Foundation, Jagdishpura, Sonapat' for affiliation with a University of choice being a Minority Educational Institution under Article 30(1) of the Constitution of India and under Section 10A of the guidelines issued by the National Commission for Minority Educational Institutions, Government of India, New Delhi. As per the guidelines issued by the State Government vide memo No. 1/66-2003 Co. (3) dated 25.09.2006 the concerned institution 'has a right of seek-



ing affiliation with any affiliating body of their own choice'. In light of the above it is requested that the notice issued to the Financial Commissioner & Principal Secretary to Government of Haryana, Higher Education Department, vide F.No. 381 of 2013 dated 19.02.2013 may be withdrawn / filed. Deputy Director Cadet Corps, For Principal Secretary to Government of Haryana Higher Education Department, Panchkula. By the above letter it is clear that State Government has issued Memo No. 1/66-2003 Co. (3) dated 25.09.2006 and given guidelines that a minority educational institution has a right of seeking affiliation with any affiliating body of its choice.

It is also relevant to mention here that the similar issue has been decided by this Commission in favour of the petitioner institution and respondent no. 3 has also admitted this fact in their reply that cases already filed in the Hon'ble High Court of Delhi against orders of this Commission for affiliation with GGSIPU, Delhi against 6 institutions. So in the interest of justice and principle of justice, equity and good conscience, the petition is deserved to be accepted, in the facts and circumstances of the case, this order will not make any example for the other cases because looking to the reply of the respondent no. 1 and in the facts and circumstances of this case, this order is passed by us.

Thus, it is clear that the right to establish minority educational institutions "of their choice" must, therefore, mean that the right to establish institutions which effectively serves the needs of their community and thus include the fundamental right to affiliation. It is well settled that any law or executive direction which infringes the substance of the right guaranteed under Article 30(1) is void to the extent of infringement. For the reasons stated above, the petition is allowed, respondent no.

1, GGSIPU is directed to process the application of the petitioner institution for affiliation in accordance with the law and procedure, without insisting for NOC by the State Government as well as by this Commission with a specific number of seats. In view of the above, the petition was disposed of accordingly.

## 7.2 Appeal No. 05 of 2018

**Subject: Application for seeking adjudication of dispute regarding affiliation in terms of the section 12(a) read with Section 10(a), 11(b), 11(f) & 11(h) of the NCMEI Act, 2004.**

**Appellant: Guru Nanak Khalsa College, Railway Road, Karnal, Haryana**

**Respondent: Director General, Higher Education Department, Government of Haryana. 1.**

The order was pronounced on 21.01.2021. In this appeal filed on 24.4.2018 under Section 12A (1) and 12B (1) of the National Commission for Minority Educational Institutions Act, 2004 (in short NCMEI Act 2004), the appellant challenged the order dated 9.4.2018 passed by the respondent whereby the competent authority/ Director General, Higher Education Department, Government of Haryana disposed of/ rejected the application preferred by the appellant for grant of MSC to the appellant institution.

Background facts in a nutshell are that appellant applied to the respondent for grant of MSC on dated 25.7.2016 with the fact that Guru Nanak Khalsa College, Karnal is a registered Society and running B.A/ B.Com & B.Com (voc.), C.A. (aided), B.Sc./ BTM/ BCA/ M.Sc. Maths/ M.Sc. Software Geography/ M.A. Punjabi/ M.Com/ PGDCA (Self-financed)



courses. This society has 2/3 members of Sikh minority community. Appellant also filed copy of academic programmes and students intake. The appellant institution is run/ administered and managed by the registered Society which is established by the members of the Sikh minority community with an aim to impart education primarily for the benefit of the Sikh minority community students. In connection with the application submitted by the appellant, respondent therein dismissed/ rejected the said application by way of an order dated 9.4.2018 (impugned order herein) with an observation that the appellant institution is having only 20% of students belonged to Sikh minority community and as per G.P. No. 1/66-2003 Coord (3) dated 8.4.2013/ 22.9.2016, the institution must have minimum 50% students belonged to minority community. In these circumstances, aggrieved by the said order of respondent, the appellant filed the present appeal before this Commission against the impugned order dated 9.4.2018.

Commission heard both the parties, perused the written arguments and contentions of appeal, reply of the appeal, rejoinder and also documents filed. The main issue in this appeal is whether the stand taken by the respondent rejecting the application dated 25.7.2016 is legally tenable?

Learned counsel for the appellant reiterated their contentions and submitted that the Hon'ble Apex Court, various High Courts as well as this Commission have categorically held that the percentage of admission of students from notified minority community in a minority educational institution is not an indicia for determining the minority status of such institution. The G.O. dated 8.4.2013 and 22.9.2016 of State of Haryana is unjustified, unlawful and unconstitutional. Learned counsel for the appellant draw attention of this Com-

mission on the Judgment dated 30.1.2019 passed by the Hon'ble High Court of Judicature at Madras in the matter of The Institute of the Franciscan Missionaries of Mary Vs. the Government of Tamil Nadu (W.P. No. 23789 of 2018). The facts and circumstances of the appellant case are very similar to the above case. In the above case, the Tamil Nadu Government has issued G.O. (MS) No. 65 dated 5.4.2018, framing additional guidelines for grant of minority status to the educational institutions, stipulating that the educational agency of all educational institutions claiming minority status shall admit not less than 50% of the students belonging to the minority community in every academic year. The above G.O. was set aside by the Hon'ble High Court of Madras after recording the undertaking given by the petitioner therein that minority educational institution shall not deny admission to the eligible candidates of the minority community subject to the eligibility of students and availability of the accommodation in schools. Appellant has already filed an affidavit in above terms of undertaking before this Commission.

Learned counsel for the appellant further submitted that Hon'ble Apex Court in its judgment dated 25.9.2019 passed in Civil Appeal No. 106 of 2011 in the matter of Andhra Kesari College of Education & Anr. Vs. State of Andhra Pradesh has categorically affirmed the legal position that if a minority institution does not have the percentage of students belonged to such minority community as prescribed by the State Government, then such minority institution can admit eligible students from other communities also to fill the vacant seats. Population of the Sikh community in Karnal, Haryana is only 7.86% as per the Census of 2011, so the rejection order of the respondent is arbitrary and unjustifiable and learned counsel for the appellant prayed to set aside the



impugned order and decide on the minority status of the appellant institution and to give such directions if any in favour of the appellant.

On the other hand counsel appearing for the respondent reiterated their contention and submitted that the strength of students in the appellant college is negligible, which is quite contrary to the instructions dated 8.4.2013 and 22.9.2016, where it is provided that there must be reasonable strength of students of minority community in the college. After filing affidavit of President, Guru Nanak Khalsa College Society, Karnal, the respondent has re-examined the entire matter and it has been observed that the petitioner institution has not fulfilled the specific condition No. 9 of department guidelines. In the academic session for the year 2019-20, only 387 minority students out of 1640 (Total students) i.e. 23.59% got admission. Respondent has placed reliance on Case P.A. Inamdar Vs. State of Maharashtra (Supra) & Kerala Education Bill Case (Supra), guidelines for determination of minority status under the Constitution of India and prayed to dismiss the appeal.

Having heard the learned counsel for the appellant as well as representative of the respondent, perusal of the written submission, entire record including impugned order dated 9.4.2018, all the documents, citations relied on by both the parties. At the outset, we made it clear that this Commission has been created under an Act of Parliament to facilitate exercise of the educational rights of minorities enshrined in Article 30 of the Constitution of India. This Commission is a quasi-judicial tribunal and it has been vested with the jurisdiction, power and authority to adjudicate upon the dispute relating to grant of MSC etc. covered under Article 30 of the Constitution of India. The rationale behind Article 30 of the

Constitution is to give protection to minorities to run educational institutions of their choice. These rights are protected by a prohibition against their violation and are backed by a promise of enforcement. The protection is contained in Article 30 which bars the State for making any law, rule and regulation abridging or limiting any of the fundamental rights guaranteed under Chapter 3 of the Constitution and these to veto any law rule or regulations found inconsistent with. Guidelines cannot take place of constitutional provisions and the provisions of Central Act. No government can destroy the said fundamental right under the grab of a policy decision.

By impugned order dated 9.4.2018, the respondent has rejected the application dated 25.7.2016 preferred by the appellant for grant of MSC. The only reason given in the order dated 9.4.2018 is that the appellant institution is taking only 20% of students belonged to Sikh minority community and as per G.O. dated 8.4.2013 and 22.9.2016, the institution must take minimum 50% students belonging to minority community. So only one question of law arises in the present appeal is that whether the facts and circumstance of the present case petitioner institution must have minimum 50% students from Sikh minority community?

It is pertinent to mention here that similar issue has been decided by this Commission in favour of the minority institutions in various cases. Hon'ble Apex Court and various High Courts have also held that the percentage of admission of students from notified minority community in a minority educational institution is not indicia for determining the minority status of such institutions. Above legal issue was clearly discussed by this Commission in the case of Buckley Primary School, Cuttack, Orissa Vs. Government of Orissa (order passed by the Commission in Case No. 1320



of 2009 dated 6.7.2010), which reads as under:

*“it has been held by the Supreme Court in TMA Pai (Supra) that the intake of minority students in the concerned institution has to be dependent upon variety of factors like what kind of institution it is, whether primary, secondary, high school or college or otherwise, the population of that community in the State and to the need of the area in which the institution is located. It is by considering these factors that the State may fix a minimum intake of minority and non-minority students. The Supreme Court has also held that “what would be a reasonable extent would depend upon variable factors, and it may not be advisable to fix any specific percentage.” From the above it is clear that a ceiling of 50% cannot be imposed against the minority institutions, requiring them to compulsorily admit the minority students upto 50%. There cannot be a common rule or regulation in respect of all types of educational institutions from primary to college level and for the entire State fixing the uniform ceiling in the matter of admission of students in minority educational institutions”.*

*Consequently, we find and*

*hold that the identifying criteria of fixation of a percentage governing admission of a minority community in a minority educational institution cannot be included in the indicia for determining the minority status of such an institution.”*

As we have stated above, the population of Sikh community in Karnal, Haryana as per the Census of 2011 is only 7.86% and overall population of Sikhs in Haryana is only 4.91%. In our considered opinion even if petitioner institution makes all efforts, may not be able to secure 50% admission from their own Sikh community. In this view Sikh community of Haryana State would lose its right to establish and administer educational institutions of its choice guaranteed under Constitution. If the fixed formula of 50% is to be adhered to the said right of the Sikh community of Haryana State under Article 30, would stand forfeited. Thus, imposition of a uniform ceiling on admission of minority students in all types of minority educational institution is virtual negation of the Constitutional protection.

In case of Andhra Kesari College of Education & Anr. Vs. State of Andhra Pradesh Civil Appeal No. 106 of 2011, judgment dated 25.9.2019, the Hon'ble Supreme Court has held that the requirement to fill the vacant seats by non--minority candidates was based on statistical data which showed that the number of colleges and the seats available for minorities were highly disproportionate and far in excess of the population as per the 2001 census. The distinct possibility of seats remaining unfilled in the Minority Institutions every year, would not be in the interest of the Minority Educational Institutions. With this object in mind, G.O.M. No. 98 was issued to ensure that the vacant seats in the 85% Management



Quota did not remain unfilled during any academic year. The G.O.M. merely stipulated that if the said Quota remained unfilled by minority students, it would be filled from the merit list of successful candidates, as allotted by the Convenor, Ed. CET to promote excellence in education. By this process, an opportunity was granted to the CET qualified non-minority candidates to secure quality education, which would subserve the interest of the nation.

In above judgment Hon'ble Apex Court categorically affirmed the legal position that if a minority institution does not have the percentage of students belonging to such minority community as prescribed by the State Government, then such minority institution can admit eligible students from other communities also to fill full the vacant seats.

In the Judgement dated 30.1.2019 passed by the Hon'ble High Court of judicature Madras in the matter of The Institute of the Franciscan Missionaries of Mary, Chennai Vs. Government of Tamil Nadu in W.P. No. 23789 of 2018 has observed that:

“This batch of writ petitions has been filed questioning the correctness of the G.O. (Ms.) No. 65, School Education (MS) Department dated 5.4.2018 issued by the Principal Secretary to Government, Department of School Education, the first respondent herein framing additional guidelines for grant of minority status to the educational institutions, stipulating that the educational agency of all educational institutions claiming minority status shall admit not less than 50% of the students belonging to the minority community in every academic year, while fixing the upper limit of 75% in respect of the aided institutions.

Since Section 11 (f) of the National Commission for Minority Educational Institutions Act, 2004 confers jurisdiction on the NCMEI

to issue a certificate regarding the status of the minority educational institution, the first respondent cannot seek to decide the minority status of the petitioners institutions, in the event of not securing admission of not less than 50% of students in the unaided minority institutions and 75% of the students in the aided minority institutions every academic year from the minority community.

Secondly, after the judgment in P.A. Inamdhar's case holding that minority institutions are free to admit students of their own choice including students of non-minority community as also members of their own community from other State, both to a limited extent only and not in a manner and to such extent that their minority educational institution status is lost, because if they do so, they lose the protection of Article 30 (1), the Parliament introduced Article 15(5) amending the Constitution with effect from 21.1.2006 providing reservation for SC/ST/OBC in private institutions, both aided and unaided, in higher education, although it has safely excluded the minority educational institutions, both aided and unaided. But the said amendment was also questioned in Ashoka Kumar Thakur v. Union of India and others, (2008) 6 SCC 1. Again the Constitution Bench of the Hon'ble Supreme Court, repelling the challenge, has held that the minority institutions form a different class of institutions and therefore the Government cannot tamper with the admission process, consequently the ratio laid down in T.M.A. Pai Foundation in paragraph-161 relating to Question No. 4 and the ratio laid down in P.A. Inamdhar's case in paragraphs 127, 128 and 133 regarding the rule of reservation even in aided minority institutions, were held bad in law. (emphasis supplied)

In addition thereto, when the Government Educational Institutions (Reservation in Admis-



sion) Act, 2006 was introduced to provide for reservation in the admission of student belonging to the Scheduled Caste/ Scheduled Tribe and Other Backward Class of citizens to certain central educational institutions established, maintained or aided by the Central Government, Section 4(c) was introduced excluding minority educational institutions from the applicability of the Act. More importantly, thereafter, when the Right of Children to free and Compulsory Education Act, 2009 was introduced, while discussing the validity of Clause (5) of Article 15 of the Constitution, the Constitution Bench of the Apex Court has held in *Pramati Educational and Cultural Trust and others v. Union of India and others* (2014) 4 MLJ 486 that the 2009 Act insofar as it applies to minority schools, aided or unaided, covered under clause (1) of Article 30 of the Constitution is ultra vires of the Constitution.

It is made clear that the interference by the Government in any manner regarding the seat sharing in minority educational institutions, both aided and unaided, is unjustified, unlawful and unconstitutional. This position also has been restated by the Division Bench of this Court in the judgment dated 7.1.2014 passed in W.P. No. 14734 of 2012 (*The Federation of the Catholic Faithful represented by its General Secretary, Chennai v. The Government of Tamil Nadu represented by its Secretary, Higher Education Department and others*).

Since the first respondent has also taken a stand that the percentage of 50% is not rigid and in case of non-availability of minority students, the minority status will not be withdrawn on the ground of non-achievement of 50% target for new admissions and it is only when admission to minority students is denied within 50% target for new admissions and it is only when admission to minority student is denied

within 50% limit, action will be taken against the institution for withdrawal of minority status on grounds of not promoting the interests of minority students, the writ petitions deserve to be allowed recording the undertaking given by the petitioners institutions that they will not deny admission to the minority students, subject to their fulfilling the eligibility criteria and also the availability of vacancies.

The impugned G.O. (Ms.) No. 65, School Education (MS) Department dated 5.4.2018 is set aside, recording the undertaking given by the petitioners institutions that all the minority educational institutions shall not deny admission to the eligible candidates of the minority community, subject to the eligibility of the students and availability of accommodation in the schools.

As the G.O. dated 8.4.20-13 and 22.9.2016 issued by the Haryana Government is concerned in the light of above Judgments and observation clearly unjustified, unlawful and unconstitutional. Appellant institution case is also similar to the above case of *Franciscan Missionaries of Mary Vs. The Government of Tamil Nadu* (Supra). In above case T.N. Government has issued G.O. dated 5.4.2018 framing additional guidelines for grant of MSC to the educational institutions, stipulating that all the educational institutions claiming minority status shall admit not less than 50% of the students belonging to the minority community in every academic year. Hon'ble High Court of Madras while adjudicating the legal issue held that interference by the Government in any manner regarding the seat sharing in minority educational institutions both aided and unaided is unjustified, unlawful and unconstitutional. We are also of the above opinion. In the facts circumstances and above observations, in our considered opinion, impugned order dated 9.4.2018 is arbitrary, unjustified,



unlawful, unconstitutional and deserve to be set aside.

The Commission found no impediment in the application being granted the minority status to the appellant institution. Appellant institution already filed the affidavit of the President, Guru Nanak Khalsa College Society. The impugned order dated 9.4.2018 does not reveal any rationale for rejecting the appellants' application for grant of minority status certificate. Therefore, the impugned order dated 9.4.2018 is hereby set aside. The matter is remanded to the learned respondent authority of the State of Haryana for deliberating on the application for grant of minority status to

the appellant institution.

The respondent competent authority of the State of Haryana was requested to deliberate on application for grant of minority status to the appellant at the earliest, expeditiously. In the interest of justice in addition to the rules, appellant is also directed to produce certified copy of the order of this Commission before the respondent competent authority of the State of Haryana immediately for compliance.

In view of the above, the appeal was disposed of in accordance with this order.



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## CHAPTER 8

# References From Central Government and State Governments and Commission's Recommendations

As per Section 11 (a) of the Act, the Commission shall advise the Central Government or any State Government on any question relating to the education of minorities that may be referred to it.

### **8.1. Interaction with Competent Authorities/Authorities of the States/UTs:**

The Commission used to take meetings of State/UT Competent Authorities and Authorities appointed under section 10 of NCMEI Act and as per the provisions contained in the National Commission for Minorities Act 1992 (19 of 1992) and provide them suitable guidance with regard to handle the cases of Mi-

nority Educational Institutions. In the year 2020-21, the NCMEI interacted with these authorities online.

30 States/UTs have appointed Competent Authority to grant No Objection Certificate. Assam, Maharashtra, Manipur, Dadra & Nagar Haveli, Delhi, J&K and Ladakh have not appointed the same. In 32 States/UTs, the petitioner institutions can apply directly to the State/UT for grant of MSC. The State Governments/UT Administrations which have not appointed Competent authority as per the Act, have been requested to appoint Competent authority. A list of the State Competent Authority is given in **Annexure-3**.



## CHAPTER 9

# Recommendations for the Integrated Development of Education of Minorities

Following functions under Section 11 deal with recommendations of NCMEI for integrated development of the minorities:

- make recommendations to the appropriate Government for the effective, implementation of programmes and schemes relating to the Minority Educational Institutions; and
- do such other acts and things as may be necessary, incidental or conducive to the attainment of all or any of the objects of the Commission

9.1 Issues regarding violation of educational rights of the Minority Educational Institutions and constitutional safeguards as enshrined in the Constitution of India are taken up with the MEIs and also they are regularly sensitized on the following:

- Article 30(1) of the Constitution, which provides religious / linguistic minorities to establish and administer educational institutions of their choice.
- Right to Education (RTE) Act- Hon'ble Supreme Court's judgement in the matter of Pramati Educational & Cultural Trust (R) & Others Versus Union of India & Ors., in which it was held that proposition of law establishes that RTE Act 2009 is not applicable to Minority Schools, aided or unaided.
- MEIs rights namely reservation not

applicable in admission, autonomy in choosing its governing body, appointment of teaching & non teaching staff, admitting students of their own choice including students from non-minority community and also students from their own community etc.

- Judgments of the Hon'ble Supreme Court on the applicability of minorities' rights.
- State's in the interest of discipline and academic excellence, to regulate the affairs
- Functions and Powers of Commission.

9.2 . The Commission also takes the cases from various educational institutions and pass appropriate orders in which the State Competent Authorities and State Authorities are directed to review the cases of NOC and MSC of such institutions come under their jurisdiction. Some of the cases decided by the commission and sent back to the State Competent Authorities and State Authorities are given as under:

**9.2 CASE NO.  
33,34,35,37,133,173,219 and 222  
of 2019**

**Subject:** Petition for MSC

**Petitioner:** Case No. 33 of 2019: **St.**



**Mary's English Medium School, Kunnapuzha, Aramada P.O., Thiruvananthapuram Dt., Kerala run by Jyothi Province Education Trust, K o t h a m a n g a l a m , Ernakulam, Kerala.**

Case No. 34 of 2019: **Sacred Heart Jyothi Central School, A r a s u p a r a m b u , N e d u m a n g a d u , Thiruvananthapuram Dt., Kerala run by Sacred Heart Jyothi Central School Trust, Palai, Kottayam District, Kerala.**

Case No. 35 of 2019: **St. Mary's HSS Vallakom Padinjarekara, P.O., Vaikom, Kottayam Dt., Kerala run by Vallakom St. Mary's Educational and Charitable Trust, Vaikom, Kerala.**

Case No. 37 of 2019: **St. Vincent Pallotti English Medium School, M a n i c k a p u r a m , Puthukulangara P.O., N e d u m a n g a d u , Thiruvananthapuram Dt., Kerala run by Pallotine Educational & Charitable Trust, M a n i c k a p u r a m , Puthukulangara P.O., Nedumangad, Trivandrum, Kerala.**

Case No. 133 of 2019: **Darul Quran Academy (Madrassa), Alathiyor P.O., Tirur, Malappuram, Kerala run by The Light Educational and Charitable**

**Trust, Malappuram District, Kerala.**

Case No. 173 of 2019: **International Institute of Islamic Sciences, Thondernadu P.O., Korome, Wayanad District, Kerala run by IIS Educational Trust, Calicut, Kerala.**

Case No. 219 of 2019: **St. Paul's Higher Secondary School, K o z h i n j a m p a r a , Kozhinjampara P.O., Palakkad District, Kerala run by The Sultanpet Diocese Society, Palakkad District, Kerala.**

Case No. 222 of 2019: **Moon School of Creative Science, Karuka, Perumbillichira P.O., Thodupuzha, Idukki, Kerala run by Moon Educational Trust, Idukki District, Kerala.**

Respondent: **The Secretary, General Education Department, Government of Kerala.**

The order was pronounced on 16<sup>th</sup> February, 2021..This was a batch of 8 cases filed by the educational institutions mentioned above for grant of minority status certificate on the ground that they have been established and are being administered by the members of the Christian and Muslim minority community. Since a common question of law and fact is involved in all these cases, they are being heard together and disposed of by this common order. Learned counsels for the petitioners filed affidavits in support of the averments made in the petitions and also to prove that the beneficiaries of the petitioner institutions



are members of the Christian and Muslim community.

Learned counsels for the petitioners have also filed copies of relevant documents including trust deed, copy of application sent to the State Competent Authority, proof of delivery of NOC application, NITI Aayog's NGO Darpan Portal unique ID for the respective institutions.

The background facts of this case are that the petitioners have filed application under section 10 of the NCMEI Act, 2004 to the respondent on 27.11.2018 (C. No. 33 of 2019, C. No. 34 of 2019, C. No. 35 of 2019), 26.11.2018 (Case No. 37 of 2019), 22.11.2018 (C. No. 133 of 2019 and 173 of 2019), 27.12.2018 (C. No. 219 of 2019) and 11.12.2018 (Case No. 222 of 2019), respectively for grant of No Objection Certificate (in short 'NOC') which were disposed of vide orders by the State Competent Authority dated 19.2.2019, 8.3.2019, 11.3.2019, 13.3.2019 and 27.3.2019. The impugned orders passed by the authority of the State of Kerala reads as follows:

*“Attention is invited to the reference. At present State Government is not granting minority status to the educational institutions in the State. As per Section 11 (f) of the National Minority Educational Institutions Act, 2004, the National Commission for Minority Educational Institutions, New Delhi (NCMEI) constituted under Section 3 of the Act, can decide all questions relating to the minority status of an educational institution and to declare it as a minority educational institution. Hence the applicant is free to approach the Commission for obtaining minority status.”*

In these circumstances, these petitions were filed by the petitioners for grant of MSC. Notice of these petitions was served to the respondent. Despite service of registered

notice, none appeared on behalf of the respondent. Hence, the Commission proceeded the cases ex-parte against the respondent. It was argued by the learned counsels for the petitioners that the competent authority of the State of Kerala has failed to appreciate the provisions of NCMEI Act, 2004 and wrongly disposed of the application with the observation that the State Government is not granting minority status certificate to educational institutions in the State and as per Section 11(f) of the NCMEI Act, 2004, this Commission constituted under Section 3 of the Act, can decide all questions relating to the minority status of an educational institution and to declare it as a minority educational institution. Hence the applicants are free to approach the Commission for obtaining minority status. Learned counsels for the petitioners submitted that the competent authority has given liberty to the petitioners to file application for grant of minority status certificate before this Commission. The petitioner institutions are fulfilling all the criteria for grant of NOC as per NCMEI Act, 2004. The competent authority had failed to consider their application for grant of NOC. Obtaining minority status certificate is a constitutional right of minority educational institution. The petitioner institutions were established and administered by the members of the Christian and Muslim minority communities. The impugned orders are clearly against the verdict of Hon'ble Apex Court in the matter of SISTERS OF ST. JOSEPH OF CLUNY V/s THE STATE OF WEST BENGAL & ORS (Civil Appeal No. 3945/2018, Judgement dated 18/04/2018).

The petitioner institutions are established and administered by the members of the Christian and Muslim minority communities. The Memorandum of Association/ Trust Deeds of the Society/ Trust clearly reflected that the petitioner institutions were been established

primarily for the benefit of Christian/ Muslim Minority Community.

In the facts and circumstances of the cases, learned counsels for the petitioners prayed for grant of minority status certificate in favour of the petitioner institutions. After hearing the learned counsels for the petitioners, the Commission perused the entire record i.e. Certificate of Registration of Society, Memorandum of Association, amended Memorandum of Association, Rules & Regulations, Trust Deed, amended Trust Deed, affidavits, impugned orders dated 19.2.2019, 8.3.2019, 11.3.2019, 13.3.2019 and 27.3.2019, copies of applications filed by the petitioner institutions before the competent authority of State of Kerala, recognition orders and copies of Unique ID of Society/ Trust given by the NITI Aayog portal NGO Darpan.

By the impugned orders dated 19.2.2019, 8.3.2019, 11.3.2019, 13.3.2019 and 27.3.2019, the respondent had disposed of applications under Section 10 of the NCMEI Act, 2004 and stated that the State Government was not granting MSC to the educational institutions in Kerala State and also ordered that this Commission has power to decided MSC application.

The Commission observed that any State Government cannot deny for grant of minority status certificate because this is constitutional right of a minority institution. It is also reflected in the order of the competent authority that State Government is not granting minority status to any educational institution. The petitioner institutions have filed application before the State competent authority for grant of NOC under Section 10 of the NCMEI Act, 2004 and had not filed any application for grant of MSC.

The NCMEI Act, 2004 was amended twice in order to further broad based and ex-

pand the functions as well as the quasi judicial powers of the NCMEI. The sections relevant for just decision of this case are set out here below:

**“Section 10:- Right to establish a Minority Educational Institution:-**

- (1) Subject to the provisions contained in any other law for the time being in force, any person, who desires to establish a Minority Educational Institution may apply to the competent authority for the grant of no objection certificate for the said purpose.”
- (2) The Competent authority shall,—
  - (a) on perusal of documents, affidavits or other evidence, if any; and
  - (b) after giving an opportunity of being heard to the applicant, decide every application filed under sub- section (1) as expeditiously as possible and grant or reject the application, as the case may be: Provided that where an application is rejected, the Competent authority shall communicate the same to the applicant.
- (3) Where within a period of ninety days from the receipt of the application under sub-section (1) for the grant of no objection certificate,—
  - (a) the Competent authority does not grant such certificate; or
  - (b) where an application has been rejected and the same has not been communicated



to the person who has applied for the grant of such certificate, it shall be deemed that the Competent authority has granted a no objection certificate to the applicant.

- (4) The applicant shall, on the grant of a no objection certificate or where the Competent authority has deemed to have granted the no objection certificate, be entitled to commence and proceed with the establishment of a Minority Educational Institution in accordance with the rules and regulations, as the case may be, laid down by or under any law for the time being in force.

*Explanation —*

For the purposes of this section — “applicant” means any person who makes an application under sub-section (1) for establishment of a Minority Educational Institution;

“no objection certificate” means a certificate stating therein, that the Competent authority has no objection for the establishment of a Minority Educational Institution.

**Section 12 A:-**

- (1) Any person aggrieved by the order of refusal to grant no objection certificate under sub-section (2) of section 10 by the Competent Authority for establishing a Minority Educational Institution, may prefer an appeal against such order to the Commission.
- (2) An appeal under sub-section (1) shall be filed within thirty days from the date

of the order referred to in sub-section (1) communicated to the applicant: Provided that the Commission may entertain an appeal after the expiry of the said period of thirty days, if it is satisfied that there was sufficient cause for not filing it within that period.

- (3) An appeal to the Commission shall be made in such form as may be prescribed and shall be accompanied by a copy of the order against which the appeal has been filed.
- (4) The Commission, after hearing the parties, shall pass an order as soon as may be practicable, and give such directions as may be necessary or expedient to give effect to its orders or to prevent abuse of its process or to secure the ends of justice.
- (5) An order made by the Commission under sub-section (4) shall be executable by the Commission as a decree of a civil court and the provisions of the Code of Civil Procedure, 1908 (5 of 1908), so far as may be, shall apply as they apply in respect of a decree of a civil court.

**Section 12B:- Power of Commission to decide on the minority status of an educational institution.**

- (1) Without prejudice to the provisions contained in the National Commission for Minorities Act, 1992 (19 of 1992), where an authority established by the Central Government or any State Government, as the case may be, for grant of minority status to any educational institution rejects the application for the grant of such status, the ag-

grieved person may appeal against such order of the authority to the Commission.

- (2) An appeal under sub-section (1) shall be preferred within thirty days from the date of the order communicated to the applicant: Provided that the Commission may entertain an appeal after the expiry of the said period of thirty days, if it is satisfied that there was sufficient cause for not filing it within that period.
- (3) An appeal to the Commission shall be made in such form as may be prescribed and shall be accompanied by a copy of the order against which the appeal has been filed.
- (4) On receipt of the appeal under sub-section (3), the Commission may, after giving the parties to the appeal an opportunity of being heard, decide on the minority status of the educational institution and shall proceed to give such direction as it may deem fit and, all such directions shall be binding on the parties.”

As per the above provisions, the person who desires to establish minority institution is to apply to the competent authority of the State Government for grant of NOC for the said purpose under section 10 of the NCMEI Act, 2004. The Act of 2004 also conferred powers of appeal against orders of the competent authority of State to the NCMEI under section 12A as well as over authorities that were established by the Central Government or State Government who rejected application for grant of MSC to an educational institution under section 12B of the NCMEI Act, 2004.

The Hon'ble Supreme Court in Civil Ap-

peal No. 3945 of 2018 in the matter of Sisters of St. Joseph of Cluny V/s. The State of West Bengal and Ors. (2018) 6 SCC 772 vide order dated 18.4.2018 has also held that:-

“However, Section 10(1), which was introduced at the same time as Section 11(f) by the Amendment Act of 2006, carves out one facet of the aforesaid power contained in Section 11(f), namely the grant of a no objection certificate to a minority educational institution at its inception. Thus, any person who desires to establish a minority educational institution after the Amendment Act of 2006 came into force, must apply only to the competent authority for the grant of a no objection certificate for the said purpose. It is a little difficult to subscribe to Shri Hedge’s argument that the said powers are concurrent. Harmoniously read, all applications, for the establishment of a minority educational institution after the Amendment Act of 2006 must go only to the competent authority set up under the statute. On the other hand, for the declaration of its status a minority educational institution at any state post establishment, the NCMEI would have the power to decide the question and declare such institution’s minority status.”

Looking to the provisions of NCMEI Act, 2004 and the judgement of Hon’ble Apex Court in the matter of Sisters of St. Joseph of Cluny (Supra), this Commission has both jurisdiction original as well as appellate, any educational institution who desires to establish minority educational institution has two options. Firstly, it can apply before an authority established by the Central Government or any State Government, Union Territory as the case may be for grant of MSC and if above authority rejected the application for grant of MSC, the aggrieved person may appeal against such order of the authority to this Commission under section 12B of NCMEI Act, 2004. Secondly, under



section 10 of NCMEI Act, 2004 whosoever desires to establish an minority educational institution has to apply the Competent Authority of the State Government for grant of NOC within a period of 90 days from the receipt of the application, if competent authority does not grant NOC or application rejected but not communicated to the appellant it shall be deemed that NOC has been granted and the appellant can file application for grant of MSC straightaway to this Commission. Any person aggrieved by the order of refusal to grant of NOC by the competent authority may prefer an appeal to this Commission under Section 12A of NCMEI Act, 2004.

In the considered opinion of the Commission an educational institution can opt one course either to file application for grant of MSC before the State Competent Authority or to file grant of NOC. In the present case appellant had applied for grant of NOC to the State Competent Authority but instead of deciding the NOC application competent authority of the State passed the orders dated 19.2.2019, 8.3.2019, 11.3.2019, 13.3.2019 and 27.3.2019 rejecting the NOC.

In view of the above facts and observations, it is an admitted fact that the petitioner institutions had applied to competent authority of the State of Kerala for grant of NOC under section 10 of NCMEI Act, 2004 and the said applications were not decided in accordance with the provisions of NCMEI Act, 2004 and verdict of the Hon'ble Apex Court by the State competent authority and passed the impugned orders dated 19.2.2019, 8.3.2019, 11.3.2019, 13.3.2019 and 27.3.2019. So in the interest of justice, the Commission was of the considered opinion that without going on the merits of the case, it was just proper and fit case to send the matter back to the State Competent Authority to decide the application of

the petitioner institutions for grant of NOC under Section 10 of the NCMEI Act, 2004 on merits after considering all the documents produced by the petitioner institutions at the earliest.

In view of above, the petitions were disposed of in accordance with this order.

### **9.3 Case No. 155 of 2018**

**Subject: Application for seeking minority status certificate by Progressive International School, Islam Nagar Road, Lambakheda, Bhopal, Madhya Pradesh- 462 001.**

**Applicant: Progressive International School, Islam Nagar Road, Lambakheda, Bhopal, Madhya Pradesh- 462 001.**

**Respondent: Commissioner, Backward Classes & Minority Welfare Department, Government of Madhya Pradesh, Satpura Bhawan, 2 nd Floor, Arera Hill, Bhopal, Madhya Pradesh.**

The order was pronounced on 19.8.2020. Shri Abdul Allam S/o Abdul Salam Farooqui, R/o H No. 23, Street No. 1, Near Jameel Hostel Ibrahimpura, Bhopal- 462 001, Secretary of Progressive Educational Trust, H No. 23, Street No. 1, Near Jameel Hostel Ibrahimpura, Bhopal- 462 001 filed this application dated 8.2.2018 with his affidavit and affidavit of Smt. Fiza Khan, Principal of the applicant institution for grant of MSC to their institution. The Hon'ble Court of the Commission heard the learned counsel appearing for the petitioner institution and perused the record, documentary evidence Certificate of Registration, Trust



Deed dated 29.2.2016, and application dated 8.2.2018 with affidavit of Shri Abdul Allam, Secretary of the trust and Smt. Fiza Khan, Principal of the CASE applicant institution for grant of MSC, Recognition Order dated 1.4.2019 issued by the District Education Officer, Bhopal, Madhya Pradesh, Unique ID No. MP/2018/0192202 given by the Niti Aayog Portal NGO Darpan, copy of application dated 15.5.2017 for grant of MSC to the State Authority and reminder dated 18.11.2017, application dated 15.5.2017 for grant of NOC. The brief facts of the case were observed by the Court of the Commission that on 15.5.2017, the petitioner institution had applied to the Competent Authority of the State Government of MP for grant of MSC and the said application was pending with them. The petitioner had also sent a reminder dated 18.11.2017 but no response was received from the competent authority. It was admitted fact by the petitioner that during the pendency of the said application this application filed before the Commission in original jurisdiction for grant of religious minority status to the petitioner institution. Despite service of notices, the respondent/ State Competent Authority has failed to reply the petition and apprised the Commission by letter dated 10.7.2019 that the application of petitioner for grant of NOC is under process and said government will obey the order/ judgment of this Commission. Learned counsel for the petitioner filed letter dated 15.5.2017 filed before the State Competent authority which was received by the State competent authority on the same date. Then in the light of above letter, notice was again issued to the State Competent Authority and the said authority apprised that the application of petitioner is under process for grant of NOC and said government will obey the order/ judgment of this Commission. The petitioner suddenly filed a copy of the application dated 15.5.2017 for

grant of NOC filed before Competent Authority to the Commission on 2.4.2019. It is made clear that the petitioner had not disclosed this fact in the petition dated 8.2.2018 that he has filed two applications, one is for grant of MSC and second is for grant of NOC. It was surprising and created doubt in the minds of the Commission that the petitioner had filed application for grant of MSC before the State Competent Authority on 15.5.2017 and on the same date petitioner has also filed application of grant of NOC. When the application for grant of MSC was pending before the State Competent Authority, the petitioner need not to file another application for grant of NOC and the State Competent Authority was sitting tight over this matter.

The petitioner institution has applied for grant of MSC on the ground that the same had been established and being administered by Progressive Educational Trust, which is registered Trust constituted by trustees of the Muslim minority community. All the trustees of the said trust are from the Muslim minority community. Learned counsel for the petitioner submitted that petitioner had applied to the State (Commissioner, Backward Classes & Minority Welfare Department, Government of Madhya Pradesh) for grant of MSC on 15.5.2017. Since there was no result from the State, the institution applied to the Commission for MS. 8. The NCMEI Act, 2004 was amended twice in order to further broad base and expand the functions as well as the quasi judicial powers of the NCMEI. Hon'ble Court observed that the sections relevant for just decision of that case is Section 2, Section 10, Section 12A, Section 12B and Section 12C.

As per the above provision, a person who desires to establish minority educational institution is to apply to the Competent Authority of the State Government for a "No Objection



Certificate” (NOC) for the said purpose under section 10 of the NCMEI Act, 2004. The Act of 2004 also conferred powers of appeal against orders of the Competent Authority to the NCMEI under Section 12(A), as well as over authorities that were established by the Central Government or State Government who rejected applications for the grant of minority status to an educational institution under section 12(B).

The Hon’ble Supreme Court in Civil Appeal No. 3945 of 2018 in the matter of Sisters of St. Joseph of Cluny V/s. The State of West Bengal and Ors. (2018) 6 SCC 772 vide order dated 18.4.2018 had also held that: - “However, Section 10(1), which was introduced at the same time as Section 11(f) by the Amendment Act of 2006, carves out one facet of the aforesaid power contained in Section 11(f), namely the grant of a no objection certificate to a minority educational institution at its inception. Thus, any person who desires to establish a minority educational institution after the Amendment Act of 2006 came into force, must apply only to the competent authority for the grant of NOC for the said purpose. Harmoniously read, all applications, for the establishment of a minority educational institution after the Amendment Act of 2006 must go only to the competent authority set up under the statute. On the other hand, for the declaration of its status a minority educational institution at any state post establishment, the NCMEI would have the power to decide the question and declare such institution’s minority status.” Looking to the above provisions of NCMEI Act, 2004 and the judgment of Hon’ble Apex Court in the matter of Sisters of St. Joseph of Cluny V/s. The State of West Bengal and Ors. (Supra), this Commission has both jurisdiction original as well as appellate. Any educational institution who desires to establish minority educational has two options. Firstly, it can

apply before an authority established by the Central Government or any State Government/ Union Territory, as the case may be, for grant of MSC to any educational institution and if above authority rejects the application for grant of MSC, the aggrieved person may appeal against such order of the authority to this Commission under section 12(B) of NCMEI Act, 2004. Secondly, under Section 10 of the NCMEI Act, 2004 whosoever desires to establish a minority educational institution has to apply to the Competent Authority of the State Government for “No Objection Certificate”. Where within a period of 90 days from the receipt of the application, competent authority does not grant NOC or application has been rejected but no communicated to the applicant it shall be deemed that NOC has granted and the applicant can file application for grant of MSC straightway to this Commission. Any person aggrieved by the order of refusal to grant NOC by the competent authority may prefer an appeal to this Commission under Section 12(A) of NCMEI Act, 2004. In considered opinion of Hon’ble Court of the Commission both course are not open to the educational institution to apply simultaneously for MSC and NOC. Educational institution should opt one course either to file grant of MSC before the State Competent Authority or to file grant of NOC.

In view of the above facts and observations, it was an admitted fact that the petitioner institution had applied to the Competent Authority of the State Government of Madhya Pradesh for grant of MSC and the said application is still pending. So in the interest of justice, the Commission was of the considered opinion, without going on the merits of the case, this was just proper and fit case to sent the matter back to the Competent Authority of the State Government of Madhya Pradesh with a copy of the application dated 15.5.2017 with



the request to decide the application of the petitioner for grant of minority status on merits after considering all the documents produced by the petitioner expeditiously. The petitioner was directed to produce certified copy of the order of this Commission before the Competent Authority of the State Government of Madhya Pradesh immediately for compliance of this order.

In view of the above, the present petition was disposed of in accordance with that order.

#### **9.4 CASE NO. 166 of 2018**

**Subject: Application for seeking minority status certificate by Shri Balaji Educational and Welfare Society, 306, F Rajharsh Colony, Akbarpur, Kolar Road, Bhopal**

**Applicant: Shri Babulal Jain, S/o Shri Panna Lal Jain, R/o Ward No. 7, Behlot Saket Nagar, Ganjbasoda, Distt. Vidisha, Madhya Pradesh 464001**

**Respondent: Secretary, Backward Classes and Minority Welfare Department, Government of Madhya Pradesh, Mantralaya, Bhopal, Madhya Pradesh**

The order was pronounced on 19.8.2020. Shri Babulal Jain, S/o Shri Panna Lal Jain, R/o Ward No. 7, Behlot Saket Nagar, Ganjbasoda, Distt. Vidisha, Madhya Pradesh 464001, President of Shri Balaji Educational and Welfare Society, 306, F Rajharsh Colony, Akbarpur, Kolar Road, Bhopal filed this application dated 8.2.2018 with his affidavit and affidavit of Shri Neeraj Singh, Principal of the applicant institution for grant of minority sta-

tus certificate to J.P.B. College of Teachers Education Khasra No. 1/1, 25, Village Sankal Kheda Kalan, District Vidisha, Madhya Pradesh- 464 001. The Hon'ble Court of the Commission heard the learned counsel appearing for the petitioner institution and perused the record, documentary evidence Registration Certificate of Society, Memorandum of Association of Shri Balaji Educational and Social Welfare Society, 306, F Rajharsh Colony, Akbarpur, Kolar Road, Bhopal, application dated 8.2.2018 with affidavit of Shri Babulal Jain, President of the Society and Shri Neeraj Singh, Principal of the applicant institution for grant of minority status certificate to J.P.B. College of Teachers Education, Khasra No. 1/1, 25, Village Sankal Kheda Kalan, District Vidisha, Madhya Pradesh 464001, list of office bearers of the society, Rule & Regulations of the Society, Recognition Order dated 27.8.2012 issued by the National Council for Teacher Education, Recognition/ affiliation order dated 15.6.2018 issued by the Madhyamik Shiksha Mandal, Madhya Pradesh, Bhopal, Unique ID No. MP/2018/0185326 given by the Niti Aayog Portal NGO Darpan, copy of application dated 28.8.2017 for grant of MSC and reminder dated 13.11.2017, application dated 28.8.2017 for grant of NOC, amended Memorandum of Association and Rules & Regulations of the petitioner society.

The petitioner institution had applied to the Competent Authority of the State Government of Madhya Pradesh for grant of MSC and the said application was pending with State Authority. The petitioner also sent a reminder dated 13.11.2017 but no response was received from the competent authority. It was admitted fact by the petitioner that during the pendency of the said application this application had been filed before the Commission in original jurisdiction for grant of religious minority status to the petitioner institution. De-



spite service of notices, the respondent/ State Competent Authority failed to reply the petition and apprised the Commission by letter dated 22.9.2018 that the application of petitioner is under process for grant of minority status under the Guidelines 2004 and Amended 2015 and said government will obey the order/ judgment of this Commission. Thereafter, learned counsel for the petitioner filed photocopy of letter dated 28.8.2017 filed before the State Competent authority, which was received by the Commission on 2.4.2019. Then in the light of above letter, notice was again issued to the State Competent Authority and the said authority has sent again letter dated 10.7.2019 by post mentioning therein that application filed by the petitioner before the State Government for grant of NOC was under process and the State Government will obey the order/ judgment passed by the Commission. The State Government had replied that both the applications were under process and State will obey the order/ judgment passed by the Commission. The petitioner suddenly filed a copy of the application for grant of NOC filed before Competent Authority to the Commission on 2.4.2019. It was made clear that the petitioner has not disclosed this fact in the petition dated 8.2.2018 that he had filed two applications, one is for grant of MSC and second is for grant of NOC. It was surprising and creates doubt on the minds of the Commission that the petitioner had filed application for grant of MSC before the State Competent Authority on 28.8.2017 and on the same date petitioner also filed application of grant of NOC. When the application for grant of MSC was pending before the State Competent Authority, the petitioner did need not to file another application for grant of NOC. The petitioner institution applied for grant of MSC on the ground that the same was established and being administered by Shri Balaji Educational

and Welfare Society, which was registered Society constituted by members of the Jain minority community. Majority of the members of the said society were also from the Jain minority community. As per the list of Managing Committee, three members are from the Hindu community and four members are from the Jain minority community. Learned counsel for the petitioner submitted that petitioner applied to the State (Commissioner, Backward Classes & Minority Welfare Department, Government of Madhya Pradesh) for grant of MSC on 28.8.2017. Since there was no result from the State, the institution applied to the Commission for MSC. Hon'ble Court observed that the sections relevant for just decision of that case is Section 2, Section 10, Section 12A, Section 12B and Section 12C.

As per the above provision, a person who desires to establish minority educational institution is to apply to the Competent Authority of the State Government for a "No Objection Certificate" (NOC) for the said purpose under section 10 of the NCMEI Act, 2004. The Act of 2004 also conferred powers of appeal against orders of the Competent Authority to the NCMEI under Section 12(A), as well as over authorities that were established by the Central Government or State Government who rejected applications for the grant of minority status to an educational institution under section 12(B).

The Hon'ble Supreme Court in Civil Appeal No. 3945 of 2018 in the matter of Sisters of St. Joseph of Cluny V/s. The State of West Bengal and Ors. (2018) 6 SCC 772 vide order dated 18.4.2018 had also held that: - "However, Section 10(1), which was introduced at the same time as Section 11(f) by the Amendment Act of 2006, carves out one facet of the aforesaid power contained in Section 11(f), namely the grant of a no objection certificate



to a minority educational institution at its inception. Thus, any person who desires to establish a minority educational institution after the Amendment Act of 2006 came into force, must apply only to the competent authority for the grant of NOC for the said purpose. Harmoniously read, all applications, for the establishment of a minority educational institution after the Amendment Act of 2006 must go only to the competent authority set up under the statute. On the other hand, for the declaration of its status a minority educational institution at any state post establishment, the NCMEI would have the power to decide the question and declare such institution's minority status." Looking to the above provisions of NCMEI Act, 2004 and the judgment of Hon'ble Apex Court in the matter of Sisters of St. Joseph of Cluny V/s. The State of West Bengal and Ors. (Supra), this Commission has both jurisdiction original as well as appellate. Any educational institution who desires to establish minority educational has two options. Firstly, it can apply before an authority established by the Central Government or any State Government/ Union Territory, as the case may be, for grant of MSC to any educational institution and if above authority rejects the application for grant of MSC, the aggrieved person may appeal against such order of the authority to this Commission under section 12(B) of NCMEI Act, 2004. Secondly, under Section 10 of the NCMEI Act, 2004 whosoever desires to establish a minority educational institution has to apply to the Competent Authority of the State Government for "No Objection Certificate". Where within a period of 90 days from the receipt of the application, competent authority does not grant NOC or application has been rejected but no communicated to the applicant

it shall be deemed that NOC has granted and the applicant can file application for grant of MSC straightway to this Commission. Any person aggrieved by the order of refusal to grant NOC by the competent authority may prefer an appeal to this Commission under Section 12(A) of NCMEI Act, 2004. In considered opinion of Hon'ble Court of the Commission both course are not open to the educational institution to apply simultaneously for MSC and NOC. Educational institution should opt one course either to file grant of MSC before the State Competent Authority or to file grant of NOC.

In view of the above facts and observations, it was an admitted fact that the petitioner institution had applied to the Competent Authority of the State Government of Madhya Pradesh for grant of MSC and the said application was pending with State. So in the interest of justice, Hon'ble Court of the Commission was of considered opinion, without going on the merits of the case, that was just proper and fit case to sent the matter back to the Competent Authority of the State Government of Madhya Pradesh with a copy of the application dated 28.8.2017 with the request to decide on the application of the petitioner for grant of minority status on merits after considering all the documents produced by the petitioner expeditiously.

The petitioner was directed to produce certified copy of the order of this Commission before the Competent Authority of the State Government of Madhya Pradesh immediately for compliance of this order. In view of the above, the present petition was disposed of in accordance with that order.



## CHAPTER 10

# Instances of Violation or Deprivation of Educational Rights of the Minorities

**10.1** Article 30 (1) of the Constitution gives religious or linguistic minorities right to establish and administer educational institutions of their choice. National Commission for Minority Educational Institutions has jurisdiction over the issues concerning religious minority communities which have been notified by the Central Government. At present, six minority communities have been notified by the Central Government viz. Muslim, Christian, Sikh, Budhisht, Jains and Parsis.

### 10.2. Applicability of Right to Education Act in Minority Schools

The Constitutional bench of Supreme Court in *Pramati Educational & Cultural Trust® & Others versus Union of India & Ors* (in Writ Petition (C) No. 416 of 2012 reported in “2014 AIR SCW 2859” and “(2014) 8 SCC 1”, held that the 2009 Act i.e. (the Right of Children to Free and Compulsory Education Act, 2009) in so far as it applies to minority schools, aided or unaided, covered under clause (1) of Article 30 of the Constitution is ultra vires the Constitution.

The aforesaid propositions of law established that RTE Act, 2009 is not applicable to Minority Schools, aided or unaided.

The Ministry of Human Resource Development in August, 2014 clarified after obtaining the opinion of Department of Legal Affairs that “The regulatory provisions like prohibition of holding back and corporal punishment which do not affect the substance of the

guaranteed rights to administer educational institutions as provided under Article 30 (1) are applicable to the minority institutions also. In view of the above, the regulatory provisions as provided in the RTE Act appear to be applicable to minority institutions in terms of Articles 29 and 30 of the Constitution of India.”

**10.3** A few such cases of violation of educational rights of minority have been received in the Commission which are under consideration. A case of this nature was decided by the Court of the Commission is given as under:

### 10.4 CASE NO. Misc 02 of 2020.

**Subject:** **Complaint against Principal Secretary, Department of Medical Education & Training, Government of Uttar Pradesh by Subharti Medical College, Swami Vivekanand Subharti University, Subharti Puram, N.H. 58, Delhi - Haridwar, By Pass Road, Meerut, Uttar Pradesh - 250005.**

**Complainant:** **Subharti Medical College, Swami Vivekanand Subharti University, Subharti Puram, N.H. 58, Delhi - Haridwar, By Pass Road, Meerut, Uttar Pradesh - 250005.**

**Respondent:** **Principal Secretary, Department of Medical Education &**



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**Training, U.P. State Secretariat, Lucknow, Uttar Pradesh.**

The order was pronounced on 13<sup>th</sup> of January, 2021. A petition was received from Dr. A. K. Srivastava, Principal & Dean, Subharti Medical College, Swami Vivekanand Subharti University, Subharti Puram, N.H. 58, Delhi – Haridwar, By Pass Road, Meerut, Uttar Pradesh – 250005, requesting the Commission for providing direction to the Principal Secretary, Department of Medical Education and Training, U.P. to treat Subharti Medical College as a Minority Institution as per the certificate issued by this Commission vide order dated 20.03.2017, Case No. 1222 of 2015 in favour of Subharti Medical College run by the Subharti K.K.B. Charitable Trust. This case was registered as miscellaneous case and notices were issued to the petitioner as well as respondent Principal Secretary, Department of Medical Education and Training, U.P. State. But despite service of notice none appeared on behalf of both the parties before the Commission. The petitioner submitted with the petition the copy of letter of this Commission dated 26.04.2018 alongwith Certificate of Minority Status to the applicant institution. Copy of letter dated 25.05.2018 and 12.06.2018 given by Dr. Hero Hito Venerabal, President of MTV Buddhist Religious and Charitable Trust to the Respondent. Copy of letter dated 11.06.2018 of Director General of Department of Medical Education and Training, Uttar Pradesh. Copy of letter dated 28.06.2018, of the applicant given to the Respondent. Office Memorandum dated 26.07.2018, Medical Education Section – 4, State of U.P. Copy of letter dated 13.08.2018 and 18.12.2018 of this Commission. Copy of order of the Hon'ble High

Court dated 05.08.2019, passed in Writ Petition No. 31941 of 2018. Copy of letter dated 26.08.2019 by Dr. Krishna Murthy, Secretary, MTV Buddhist Religious and Charitable Trust given to the Respondent. According to the petition, the petitioner Subharti Medical College, Meerut was granted Status of Buddhist Minority Institution by this Commission. Thereafter, a letter dated 17.05.2018 was sent to the Director General, Minority Education informing that this Commission had given Minority Status to the applicant institution. A copy of certificate was also attached with the letter. Trust submitted an application dated 22.05.2018 to the respondent in accordance with the notification of State of Uttar Pradesh dated 27.07.2017 for treating applicant institution as Minority Institution. Thereafter, petitioner institution sent a couple of reminders to the respondent to treat the college as Minority Institution in view of MSC issued by this Commission. Petitioner also filed the Writ Petition before the Hon'ble High Court of Allahabad but the decision of the case the respondent did not recognize applicant institution as Minority Institution. The petitioner institution then prayed the Commission to direct respondent to treat the petitioner institution as minority institution and issue the relevant certificate in this reference. The Commission perused the certificate issued by this Commission and also other documents produced by the petitioner institution. Considering all the facts and circumstances of the case the Commission directed the respondent Principal Secretary, Department of Medical Education & Training, U.P. State Secretariat, Lucknow, Uttar Pradesh to treat petitioner institution as Minority Educational Institution. Accordingly, the petition was disposed of.



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## CHAPTER 11

# Right To Information

The right to know is the “sine qua non” of a democracy. The Constitution of India has enshrined the- principles of democracy, especially by guaranteeing to its citizens Fundamental Rights which inter-alia include the people’s right to know everything done by the public functionaries. This right is implicit in Article 19(1)(a) and Article 21 of the Constitution of India.

To promote transparency and accountability in the functioning of the Commission, all the obligatory information under Section 4(i) of the – Right to Information (RTI) Act, 2005 is made available in the Commission’s website [www.ncmei.gov.in](http://www.ncmei.gov.in). Details such as statistics of the cases/ court judgments/ cause list/daily orders are uploaded and updated regularly.

The Commission also has a dedicated

helpline to provide information and reply to the query of the petitioners/ applicants.

The Commission being a quasi judicial organisation interacts with a number of petitioners, advocates and other stakeholders. The number of RTI applications received in the Commission is increasing every year.

Shri Jayprakash, Under Secretary is the Public Information Officer and Shri Manoj Kumar Kejrewal, Secretary is the First Appellate Authority.

During 2020-21, the Commission received a total number of 83 RTI applications including appeals (41 online and 43 offline). All the applications were disposed of within the prescribed time limit.

## CHAPTER 12

# Conclusion

**12.1 Article 30** - Right of minorities to establish and administer educational institutions

(1) All minorities, whether based on religion or language, shall have the right to establish and administer educational institutions of their choice Section 2(f) of the NCMEI Act, for the purpose of the Act, means a community notified by the Central Government.

The Central Government has notified 6 religious communities, namely Muslims, Christians, Sikhs, Buddhists, Jains and Zorastrians (Parsees). Linguistic minorities do not fall within the ambit of the NCMEI Act.

**12.2** As per Section 2 (ca) of National Commission for Minority Educational Institutions (NCMEI) Act 2004,

“Competent authority” means the authority appointed by the appropriate government to grant ‘No objection certificate’ for the establishment of any educational institution of their choice by the minorities.”

For the purpose of Section 10 of the NCMEI Act:

- all State Governments are required to appoint a “competent authority” to grant “No objection certificate” for those minority educational institutions which come to Commission for Minority Status Certificate

and for the purpose of Section 12 (B), of the NCMEI Act, 2004

- State Governments are required to appoint an “authority” for the grant of “Minority status certificate” to any minority education institution.

**12.3** Primarily the responsibility for giving recognition to educational institutions and grant of minority status certificate lies with the State Government. However, many State Governments have no mechanism to consider the request for grant of minority status certificate and as a result the petitioner institutions are approaching the Commission for grant of minority status certificate.

The Commission has been regularly impressing upon the State Authorities to appoint Competent Authority and decide on the application for grant of minority status certificate or furnishing No Objection Certificate to those educational institutions which approach the Commission for grant of MSC. The petitioner institutions from Madhya Pradesh and Kerala who had applied to the State Authorities as well as to the Commission for grant of MSC, in such cases the Commission has passed order to approach the State Authority.

**12.4** Some State Government authorities grant minority status certificate for a limited duration. It has been held by the Madras High Court in T.K.V.T.S.S. Medical Educational & Charitable Trust vs. State of Tamil Nadu, AIR 2002 Madras 42 that minority status cannot be conferred on a minority educational institution for a particular period to be renewed periodically like a driving license. It is not open for the State Government to review its earlier order conferring minority status on a minority



educational institution unless it is shown that the institution concerned has suppressed any material fact while seeking minority status or there is fundamental change of circumstances warranting cancellation of the earlier order.

**12.5** It has come to the knowledge of the Commission that the rules and regulations framed by many regulatory authorities do not confirm to the provisions of Article 30 (1). The law made by the State Governments for regulation of educational institution, applies to the minority educational institutions also. If any such law or regulation interferes with the overall administrative control by the management over the staff or dilute in any other manner, the right to establish and administer educational institution, such law or regulations to that extent, will not be applicable to the minority

educational institutions. The Commission takes up cases of MEIs in this regard also.

**12.6.** From the deliberations and interactions with the functionaries of the State Government and Minority Educational Institutions, the Commission feels that the State Government functionaries need to familiarize with the NCMEI Act and sensitized about Article 30 (1).

**12.7.** In order to streamline and bring transparency in grant of Minority Status Certificate, the Commission has revised the MSC application form w.e.f. November 2019, wherein detailed information about the Institution and functionaries is sought. Further, in certain cases, the Commission also calls for physical inspection report from the Committee of the concerned District Magistrate/Collector.



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# ANNEXURES TO THE REPORT



## ANNEXURE I

### NATIONAL COMMISSION FOR MINORITY EDUCATIONAL INSTITUTIONS

#### Ministry of Human Resource Development

(Govt. of India)

#### APPLICATION FOR MINORITY STATUS CERTIFICATE APPLICABLE (w.e.f. 01<sup>st</sup> NOV 2019)

1. (a) Institution run by:- (Tick the appropriate)

- Individual
- Trust
- Society

Institutions administered by a Trust/Society are required to furnish the unique ID provided by NGO Darpan (portal Url: <http://ngo.india.gov.in>). The details given in the form should match with the corresponding details of NGO Darpan. (Not applicable for the institution run by an individual).

(b) Name and address of the institution.

(c) The year of its establishment.

(d) Name along with the complete postal address of the Trust/Society (The address should match with the corresponding details provided by the Trust / Society on the NGO Darpan).

(e) Details of the Individual/President or Secretary of the Trust/ Society

- Name
- Postal address (with PIN Code)
- Contact Number
- e-mail ID

(f) Name and addresses of the founding Members/ Mutwallis/ Trustees and their religion.

(g) Names and Addresses of the present Trustees/ Mutwallis/ Members of the Governing Body and their religion.

2. Whether the applicant institution has been established and administered by Religious minority. Proof of religion to be attached (Tick the appropriate)

Muslim	Christian	Sikh	Jain	Buddhist	Parsee
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3. Whether the applicant institution has applied to authority established by the Central Govt. Or State Govt. as per the provision contained in the National Commission for Minorities



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Act, 1992 (19 of 1992) for grant of Minority Status Certificate? If so, furnish the status of the application. (Tick the appropriate)

- o Whether Minority Status Certificate application is pending before the State Authority.
  - o Minority Status Certificate application has been rejected (If yes, then the applicant has to apply under Section 12B of NCMEI Act, 2004 and as per National Commission for Minority Educational Institutions (Procedure for Appeal) Rules, 2006).
  - o Minority Status Certificate already granted
4. Whether applied to the State Competent Authority for grant of No Objection Certificate under Section-10 of National Commission for Minority Educational Institutions Act, 2004 . If yes, provide the following information: ( Copy of the NOC application is also required to be attached)
- a. Date of application
  - b. Acknowledgement / Proof of Service
  - c. Status of the application: (Tick the appropriate)
    - (i) Application pending  
Whether reminder(s) have been sent to the competent authority, if yes, provide the dates. (Copy of the reminder(s) and replies received, if any, in this regard is also required to be attached)
    - (ii) NOC granted by State Government
    - (iii) Application rejected (If yes, then the applicant has to apply under Section 12A of NCMEI Act, 2004 and as per National Commission for Minority Educational Institutions (Procedure for Appeal) Rules, 2006).
5. Whether the applicant institution has ever applied to the NCMEI for grant of Minority Status Certificate? If so, furnish reference number. (Copy of the final order of the Commission is required to be attached)
- 5 (i) Whether the minority status of the applicant institution has been withdrawn/ cancelled by legal authority at any time? If yes, provide the details.
  - 5 (ii) Whether the name of the institution or its ownership has changed since its inception and if so the details thereof.
  - 5 (iii) Whether any judicial forum including Hon'ble Supreme Court or Hon'ble High Court has been approached for grant of minority status? If so, furnish details and give present status.



## 6. Details pertaining to the Institution

Level of Education: - (Tick the appropriate)

- Madarsa
- Primary
- Secondary
- Higher Secondary
- Higher Education
  - General Degree
  - Technical includes professional/any other (Specify the stream)

(a) Numbers of existing teachers/ faculties and students from minority communities for last three academic years, where applicable

Number of teachers/faculties and students in academic year								TOTAL
	Muslim	Christian	Sikh	Jain	Budhist	Parsee	Hindu	A+B+C+
	(A)	(B)	(C)	(D)	(E)	(F)	+ Other (G)	D+E+ F+G
Teacher / Faculty								
Student								

7. (i) Whether the Trust/ Society of the applicant institution is registered under the Indian Registration Act/Societies Registration Act.

7 (ii) Trust/ Society are required to attach:

- Copy of registration certificate
- Copy of MOA / Trust Deed
- Copy of amended MOA / Trust Deed (if any)

7 (iii) Individual is required to attach

- Identity proof
- Residence proof
- ITR for last three years(if applicable)
- Documentary evidence (title or possession) of the institution



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8. Details of affiliation either to the Central/ State Board or any Govt. Recognized Board or University or UGC (Copy of affiliation to be attached)
    - Date of affiliation
    - Valid Upto
  9. Details of Recognition by the Regularity Body (Applicable for technical & professional Institute)
    - Name of the Regularity Body
    - Recognition Valid Upto
  10. Whether the institution has ever been de-recognised by the respective affiliating / regulatory body?
  11. Whether the institution is aided / un-aided.



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## DECLARATION

I \_\_\_\_\_ Chairman/President/Secretary on behalf of the \_\_\_\_\_ Trust/Society, hereby declare that particulars furnished above are true to the best of my knowledge and belief, and that, if any detail is found on verification/inspection to be false, the Commission shall cancel the minority status certificate awarded to the institution. The decision of the Commission in this regard shall be final.

Place \_\_\_\_\_ Chairman/ President / Secretary

Date \_\_\_\_\_ (for and on behalf of the Institution)

- Please note**
- 1 **Five Sets** of duly filed application form alongwith the requisite document are required to be submitted.
  2. The Commission does not entertain application for linguistic minority.
  3. Applicant institution whose No Objection Certificate application under section 10 of the NCMEI Act 2004 has been rejected by the State Competent Authority, then the applicant has to apply under Section 12A of NCMEI Act, 2004 and as per National Commission for Minority Educational Institutions (Procedure for Appeal) Rules, 2006
  4. Applicant institution whose Minority Status Certificate application under section 12 B of the NCMEI Act 2004 has been rejected by an Authority, is required to apply as per appeal procedure as mentioned in rule 4 of procedure for filing the appeal, 2006.
  5. On filing the petition, the petitioner is required to attach duly stamped envelope for sending communication by registered A.D, to the respondents and petitioner.



## ANNEXURE-2

### FORM NO.1

[See rule 4 of procedure for filing the appeal, 2006]

#### MEMORANDUM OF APPEAL UNDER SECTION 12A(1) AND 12B(1) OF THE NATIONAL COMMISSION FOR MINORITY EDUCATIONAL INSTITUTIONS ACT, 2004

For use of Commission's office

Date of filing .....

Date of receipt by post .....

Registration No.....

Signature Secretary

IN THE NATIONAL COMMISSION FOR MINORITY EDUCATIONAL INSTITUTIONS

..... Appellant

..... Respondent (s)

Details of appeals:

- 1 (a) Name and address of the Institution
- (b) Name and address of the President/Secretary of the Trust/Society
2. Whether the appellant institution's claim is based on religious or linguistic minority?
3. Whether the appellant institution has been established or administered by :-
  - (a) Religious minority, or
  - (b) Linguistic minority
4. Particulars of the respondent(s) including address for service of notice
5. Particulars of the order under appeal:-
  - (i) Order Number
  - (ii) Date of the order
  - (iii) Name of the authority, whose order has been challenged in the appeal.
6. *Limitation.* – The appellant further declares that the appeal is within the limitation prescribed under the Act.



7. *Facts of the case and orders passed by the competent authority* - The facts of the case are given below:

(Give herein a concise statement of facts and grounds of appeal against the order passed by the competent authority.)

8. *Matter not pending with any other Commission, etc.* - The appellant further declares that the matter regarding which this appeal has been made is not pending before any commission of law or any other authority or any other Tribunal.

9. *Relief sought.* - In view of the facts mentioned in paragraph eight above, the appellant prays for the following reliefs; (specify below the reliefs sought by the appellant).

10. *Details of indeed.* – An index in duplicate containing the details of the documents to be relied upon is enclosed.

11. List of enclosures:

#### VERIFICATION

I, ..... (name in full in block letters) son / daughter / wife of Shri ..... Do hereby verify that the contents of paras 1 to 11 are true to personal knowledge and belief and that I have not suppressed any material facts.

Signature of the Appellant

Date

Place



## ANNEXURE-3

### DETAILS OF COMPETENT AUTHORITY

S.No.	State	Competent Authority under Section 10	Authority under Section 12(B)
1.	Andhra Pradesh	Secretary to Government Government of Andhra Pradesh Minorities Welfare Department, 3 <sup>rd</sup> Floor, A.P. Secretariat, Velagapudi, Amaravati T : 0863-2443139 Prlsecy_mw@ap.gov.in	Principal Secretary to Govt. (Ex-officio) Minorities Welfare Department A.P. Secretariat, Hyderabad, (Andhra Pradesh) T : 040-2345 9290 prisecy-mw@ap.gov.in jsmwdeptap@gmail.com
2.	Arunachal Pradesh	Secretary Education to Govt.of Arunachal Pradesh Education Department Civil Secretariat, Arunachal, Itanagar. M: 8130733007 commissionerwcdandsjeta @yahoo.com	Deputy Secretary (Education) Govt. of Arunachal Pradesh Civil Secretariat, Education Branch, Block No. 1, 3 <sup>rd</sup> Floor, PO Itanagar-791 111 dysecyedn@gmail.com
3.	Assam		Joint Secretary Education Department (Higher), Assam Secretariat, Block C, Secretariat Complex, Dispur, Guwahati-6 Assam higherednassam@gmail.com
4.	Bihar	For Classes (1-8) Director, Primary Education Ground Floor, Vikas Bhawan New Secretariat, Daily Road, Patna, Bihar-800015 T: 0621-2215869 directorpe.edu@gmail.com	Secretary Human Resource Development Department, Government of Bihar, Secretariat, Patna, Bihar



S.No.	State	Competent Authority under Section 10	Authority under Section 12(B)
		For Classes (9-12) Director, Secondary Education Ground Floor, Vikas Bhawan New Secretariat, Daily Road, Patna, Bihar-800015 T: 0621-2231151 directorse.edu@gmail.com	
5.	Chhattisgarh	Commissioner ST&SC Development Department Indrawati Bhawan, Nava Raipur Atal Nagar T:0771-2262558 M:9977473000 ctdgc@nic.ni	
6.	Goa	Secretary (Home) Secretariat, Porvorim – Goa T : 0832-2416033 0832-2416139 F: 0832-2416136 dir-educ.goa@nic.in	Secretary (Home) Secretariat, Porvorim – Goa T : 0832-2419401 F : 0832-2415201 cs-goa@nic.in
7.	Gujarat	Director Primary Education Dr. Jivraj Mehta Bhawan, Floor 12/1, Gandhinagar, Gujarat T: 079-23253980 M: 9978405031 Dep.guj@gmail.com  Deputy Director Directors of Schools Old Sachivalaya Block 9/1 Gandhinagar, Gujarat T: 079-23253463 M: 9909971081 jointdirectors@gmail.com	Commissioner of Schools, Block No. 9-1, Dr. Jivraj Mehta Bhawan, Gandhinagar, Gujarat-382010 T : 079-23253463 dosgujarat@gmail.com  Commissioner of Technical Education 2 <sup>nd</sup> Floor, Block No. 2, Dr. Jivraj Mehta Bhawan, Gandhinagar-382 010 T : 079-2325 3546 F : 079-2325 3539 dteguj@yahoo.co.in



S.No.	State	Competent Authority under Section 10	Authority under Section 12(B)
		<p>Director of Higher Education Office of the Commissionerate of Higher Education, 2<sup>nd</sup> floor, block no. 12, Dr. Jivraj Mehta Bhavan, Gandhinagar-382010, Gujarat T: 079-23254000 F: 079-23252240 commi-highedu@gujarat.gov.in</p> <p>Commissioner of Technical Education Office of the Commissioner of Technical Education Block No. 2, 6<sup>th</sup> Floor Karmyogi Bhavan, Sector-10A, Gandhinagar-382 010 T : 079-2325 3546 F : 079-2325 3539 dteguj@yahoo.co.in / dire-dte@gujarat.gov.in</p>	
8.	Haryana	<p><b>For Medical Institutions</b> Directorate of Health Department for Medical Institutions Room no. 529, 5<sup>th</sup> Floor Haryana New Secretariat , Sector-17, Chandigarh T:0172-2706481</p> <p><b>For General Colleges</b> Additional Chief Secretary Govt. of Haryana Higher Education Department for General Colleges &amp; Technical Education Department for Technical Institutions Room no. 403, 4<sup>th</sup> Floor Haryana New Secretariat,</p>	Finance Commissioner & Principal Secretary Education Department, Government of Haryana, Civil Secretariat, Chandigarh, Haryana – 160 001 edusecondaryhry@gmail.com



S.No.	State	Competent Authority under Section 10	Authority under Section 12(B)
		<p>Sector-17, Chandigarh T: 0172-2714001</p> <p><b>For Technical Institutions</b> Principal Secretary School Education Department for Schools/Primary Schools Room no. 403, 4<sup>th</sup> Floor Haryana New Secretariat, Sector-1, Chandigarh-160001 T:0172-2711754</p> <p><b>For Schools</b> Principal Secretary Department of School Education Room no. 37, 7<sup>th</sup> Floor Haryana Civil Secretariat, Sector-1, Chandigarh-160001 T:0172-2711754</p>	
9.	Himachal Pradesh	<p>Director Directorate of Higher Educa- tion Shimla –I Himachal Pradesh T : 0177-2656621 F.: 0177-2811247 dhe-sml-hp@gov.in</p>	<p>Director Directorate of Higher Education Shimla-1 Himachal Pradesh, T: 0177-2656621 F: 0177-2811247 dir.edu@rediffmail.com</p>
10.	Jharkhand	<p>Director Secondary Education Under school education &amp; literacy department 3<sup>rd</sup> floor, MDI Building, S.E &amp; L. Department Behind project bhawan, Post-Dhurwa, Dist- Ranchi-834004 T: 0651-2400973 M: 9431379632 jatashankarc@gmail.com</p>	<p>Director, Secondary Education Directorate of Secondary Education School Education &amp; Literacy Department, Jharkhand, Ranchi T : 0651-2400973 dirseccednjhk@rediffmail.com</p>



S.No.	State	Competent Authority under Section 10	Authority under Section 12(B)
		<p>Director, Primary Education Department of School Education &amp; Literacy Government of Jharkhand MDI Building, S.E &amp; L. Department Behind project bhawan, Post-Dhurwa, Dist-Ranchi-834004</p>	<p>Director, Higher Education Department of Higher, Technical Education &amp; Skill Development, Government of Jharkhand 3<sup>rd</sup> Floor, Yojana Bhawan, Nepal House, Doranda Ranchi, Jharkhand-834002 T: 0651-2490070 directorhehrdd@gmail.com</p> <p>Director, Technical Education Department of Higher, Technical Education &amp; Skill Development, Government of Jharkhand 3<sup>rd</sup> Floor, Yojana Bhawan, Nepal House, Doranda Ranchi, Jharkhand-834002 T: 9546466712 dtejharkhand@gmai.com</p>
11.	Karnataka	<p>Additional Chief Secretary Education Department (Higher Education) Govt. of Karnataka Sixth Floor, Multi Storeyed Building, Bengaluru Karnataka 560001 T: 080-22252437 F: 080-22253756 prshigh-edu@karnataka.gov.in</p>	<p>Principal Secretary Education Department (Higher Education) Govt. of Karnataka Sixth Floor, Multi Storeyed Building, Bengaluru Karnataka 560001 T: 080-22252437 F: 080-22253756 prshigh-edu@karnataka.gov.in</p>
12.	Kerala	<p>Director Directorate of Minority Welfare Government of Kerala, 4<sup>th</sup> floor, Vikas Bhavan, Thiruvananthapuram, 695033 T : 0471-2300523</p>	<p>Secretary General Education Department, Government of Kerala, Room No. 302, 3rd Floor, Annex II Government Secretariat T: 0471-2518551, 2320434 M: 9995508800 secy.gedu@kerala.gov.in</p>



S.No.	State	Competent Authority under Section 10	Authority under Section 12(B)
13.	Madhya Pradesh	Secretary, Backward Classes & Minority Welfare Department, Govt. of MP, Room No. 339, Mantralaya, Bhopal, Madhya Pradesh T: 0755-2550957 F: 0755-2555553 secobc2017@gmail.com bcbpl@nic.in	Secretary, Backward Classes & Minority Welfare Department, Govt. of MP, Room No. 339, Mantralaya, Bhopal, Madhya Pradesh T: 0755-2550957 F: 0755-2555553 secobc2017@gmail.com bcbpl@nic.in
14.	Maharashtra		Joint Secretary Minorities Development Department Room No. 715, Mantralaya (Annexe), Mumbai-32 T : 022-22830031 F : 022-22830626 Sandesh.tadvi@nic.in
15.	Manipur		Additional Chief Secretary Department of Minority Affairs/ OBC&SC Government of Manipur. Room No. 198 Secretariat South Block, Imphal West, Manipur-795001 T: 0385-2451183
16.	Meghalaya	Secretary, Education Department Govt. of Meghalaya Additional Secretariat Meghalaya: Shillong-793001 dwahlang@yahoo.com	Secretary, Education Department Govt. of Meghalaya Additional Secretariat Meghalaya: Shillong-793001 dwahlang@yahoo.com



S.No.	State	Competent Authority under Section 10	Authority under Section 12(B)
17.	Mizoram	<p>Commissioner &amp; Secretary to the Govt. of Mizoram Mission Veng, Aizawl Mizoram Secretariat Building, NCC Mizoram Secretariat Complex, Khatla, Aizawl, Mizoram-796001 T:0389-2322532 F:0389-2336648 secretarysedmiz@gmail.com</p>	<p>Commissioner &amp; Secretary to the Govt. of Mizoram School Education Department Mizoram Secretariat Building, NCC Mizoram Secretariat Complex, Khatla, Aizawl, Mizoram-796001 T : 0389-2336661 Sed.mizoramgov@gmail.com</p>
18.	Nagaland	<p>The Principal Director, Directorate of School Education, Upper Bayavü Hill, Kohima, Nagaland 797121 Phone: T:0370-2260044 (Princi- pal Director office) 0370-2260048 (Director Office) Email: directorateSE@gmail.com, examInfoDose@gmail.com</p>	<p>The Principal Director, Directorate of School Education, Upper Bayavü Hill, Kohima, Nagaland 797121 Phone: T:0370-2260044 (Principal Director office) 0370-2260048 (Director Office) Email: directorateSE@gmail.com, examInfoDose@gmail.com</p>
19.	Orissa	<p><b>For Elementary Education</b> Director, Elementary Education 5<sup>th</sup> Floor, HOD Building, Unit-V, Bhubaneswar-01, Khordha, Odisha T: 0674-2395642 M:9439165791 dee.oris@gmail.co.</p> <p><b>For Secondary Education</b> Director, Secondary Education 6<sup>th</sup> Floor, HOD Building, Unit-V, Bhubaneswar, Khordha, Odisha T:0674-2393531 M:9861470628 dseorissaedn@yahoo.com</p>	<p>Principal Secretary School &amp; Mass Education Department, Government of Orissa, Secretariat, Bhubaneshwar, Orissa – 751 001 secysme@gmail.com secysme.od@nic.in</p>



S.No.	State	Competent Authority under Section 10	Authority under Section 12(B)
20.	Punjab	<p><b>For Higher Education</b> Additional Chief Secretary Department of Higher Education and Languages Punjab Civil Secretariat-II, Sector-9A, Chandigarh T : 0172-2741237 pshe@punjab.gov.in</p> <p><b>For School Education</b> Director of Public Instruction (S.E) Department of Secondary Education Branch Block E, Vidya Bhawan, 4<sup>th</sup> Floor Complex Punjab School Education Board, Sector 62, S.A.S Nagar T: 0172-2214393 M: 98551-10783 Email-ID: dpise_punjab@yahoo.co.in F: 0172-2213057</p>	<p><b>For Higher Education</b> Secretary, Higher Education Department, Room No. 510, 5<sup>th</sup> Floor, Mini Sectt., Sector 9, Chandigarh secy.se@punjab.gov.in</p> <p><b>For Medical Education and Research</b> Additional Chief Secretary Room no. 510, 5<sup>th</sup> Floor, Punjab Civil Secretariat-II, Sector-9, Chandigarh T: 0172-2743136 M: 98150-74500 E-mail ID: Secy.mer@punjab.gov.in</p>
21.	Rajasthan	<p>Principal Secretary Department of Minority Affairs &amp; Waqf Govt. of Rajasthan Room No. 1108, Main Buiding, Government Secretariat, Rajasthan, Jaipur-302005. T: 0141-2227795 E-mail ID: psmarajasthan@gmail.com</p>	<p>Principal Secretary Department of Minority Affairs &amp; Waqf Govt. of Rajasthan Room No. 8145, SSO Building, Secretariat, Jaipur-302005 Rajasthan T : 0141-2227635 psmarajasthan@gmail.com</p>
22.	Sikkim	<p>Additional Chief Secretary (Secretary-in-charge of HRDD) Government of Sikkim Human Resource Development Department, Gangtok</p>	<p>Additional Chief Secretary (Secretary-in-charge of HRDD) Human Resource Development Department, Govt. of Sikkim,</p>



S.No.	State	Competent Authority under Section 10	Authority under Section 12(B)
		T:03592-203050 gpupadhyaya@gmail.com	Gangtok gupadhaya@gmail.com
23.	Tamil Nadu	<p><b>For School Education</b> Principal Secretary, Department of School Education Government of Tamil Nadu, Rina Road, Fort St. George, Secretariat, Chennai, Tamil Nadu – 600009 T: 044-25672790 schsec@tn.gov.in</p> <p><b>For Higher Education</b> Principal Secretary Department of Higher Education Government of Tamil Nadu, Rina Road Fort St. George, Secretariat, Chennai, Tamil Nadu – 600009 T: 044-25670499 schsec@tn.gov.in</p> <p><b>For Legal Education</b> Secretary to the Government Department of Legal Education Namakkal Kavignar Maaligai, Fort St. George, Secretariat, Chennai, Tamil Nadu – 600009 T: 044-25672920 lawsec@tn.gov.in</p> <p><b>For Agriculture Education</b> Commissioner and Principal Secretary Department of Agriculture</p>	<p><b>For School Education</b> Principal Secretary, Department of School Education Government of Tamil Nadu, Rina Road, Fort St. George, Secretariat, Chennai, Tamil Nadu – 600009 T: 044-25672790 schsec@tn.gov.in</p> <p><b>For Higher Education</b> Principal Secretary Department of Higher Education Government of Tamil Nadu, Rina Road Fort St. George, Secretariat, Chennai, Tamil Nadu – 600009 T: 044-25670499 schsec@tn.gov.in</p> <p><b>For Legal Education</b> Secretary to the Government Department of Legal Education Namakkal Kavignar Maaligai, Fort St. George, Secretariat, Chennai, Tamil Nadu – 600009 T: 044-25672920 lawsec@tn.gov.in</p> <p><b>For Agriculture Education</b> Commissioner and Principal Secretary Department of Agriculture Namakkal Kavignar Maaligai, Fort St. George, Secretariat,</p>



S.No.	State	Competent Authority under Section 10	Authority under Section 12(B)
		<p>Namakkal Kavignar Maaligai, Fort St. George, Secretariat, Chennai, Tamil Nadu – 600009 T: 044-25674482 agrisec@tn.gov.in</p> <p><b>For Medical Education</b> Secretary to the Government Department of Health &amp; Welfare Namakkal Kavignar Maaligai, Fort St. George, Secretariat, Chennai, Tamil Nadu – 600009 T: 044-25671875 hfsec@tn.gov.in</p>	<p>Chennai, Tamil Nadu – 600009 T: 044-25674482 agrisec@tn.gov.in</p> <p><b>For Medical Education</b> Secretary to the Government Department of Health &amp; Welfare Namakkal Kavignar Maaligai, Fort St. George, Secretariat, Chennai, Tamil Nadu – 600009 T: 044-25671875 hfsec@tn.gov.in</p>
24.	Tripura	<p>Secretary to the Govt. of Tripura Minorities Welfare Depart- ment, Secretariat Building, New Capital Complex, Agartala T: 0381-241-5569 Secretaryobc&amp;Minority@gmail.com</p>	<p>Secretary to the Govt. of Tripura Minorities Welfare Department, Secretariat Building, New Capital Complex, Agartala T: 0381-241-5587 deym1@hotmail.com</p>
25.	Telangana	<p>Secretary to Govt. Minorities Welfare Department “D” Block, Ground Floor, Telangana Secretariat, Hyderabad-500 022 T : 040-23452983 F : 040-23459906 secy.mwts@gmail.com</p>	<p>Secretary to Govt. Minorities Welfare Department D-Block, Ground Floor, Telangana Secretariat, Hyderabad-500 022 T : 040-23452983 F : 040-23459906 secy.mwts@gmail.com</p>
26.	Uttar Pradesh	<p><b>For Higher Educational Institutions</b> Principal Secretary,</p>	<p>Deputy Director Minorities Welfare Department, 6th Floor,</p>



S.No.	State	Competent Authority under Section 10	Authority under Section 12(B)
		<p>Department of Higher Education, Government of UP Naveen Bhawan ,Room no. 3, UP Secretariat, Lucknow -226001 T: 0522-2237065 pshighereducation@gmail.com</p> <p><b>For Technical Educational Institutions</b> Principal Secretary, Department of Technical Education, Government of UP Room No-19, 3<sup>rd</sup> Floor, Sachiv Bhavan, UP Secretariat , Lucknow T : 0522-2238094, 2213178 psectecedu@gmail.com</p> <p><b>For Affiliation of the school with the CBSE</b> Principal Secretary, Secondary Education, Department of Education Government of UP</p> <p><b>For School Education</b> Additional Chief Secretary Department of School Education, Govt. of UP Bahu Khandi, Secretariat, Lucknow (UP) T : 0522-2238106 secondaryeducation.11@gmail.com</p> <p><b>For Vocational Educational Institutions</b> Principal Secretary Department of Vocational Education, Government of UP</p>	<p>Indira Bhavan, Lucknow Uttar Pradesh</p>



S.No.	State	Competent Authority under Section 10	Authority under Section 12(B)
		Room No-19, 3 <sup>rd</sup> Floor, Sachiv Bhavan, UP Secretariat, Lucknow T : 0522-2238094, 2213178	
27.	Uttarakhand	<p><b>For Other Institutions</b> Secretary Higher Education, Uttarakhand Govt. Room no. 7, Ground Floor, Late Soban Singh Jeena Bhawan ( SBI Bank Building), Uttarakhand Secretariat T: 0135-2712802 M: 9927699808 Secy-for-ua@nic.in</p> <p><b>For Madarsas</b> Education Board Alpsankhyak Director, Uttarakhand Madarsa Kalyan Bhawan, Shaeed Bhagat Singh Colony, Near A.T.S. Adhoiwala, Dehradun T: 013522781157 M:9927699644 ukmadarsaboard@gmail.com</p>	<p><b>For Madarssas</b> Director Uttarakhand Madarsa Educa- tion Board, Alpsankhyak Kalyan Bhawan, Sheed Bhagat Singh Colony, Near A.T.S. Adhoiwali, Dehradun. Email – ukmadarsaboard@gmail.com T: 013522781157 Mob:-9927699644</p> <p><b>For Other Institutions</b> Principal Secretary Higher Education, Uttarakhand Govt. Devendra Shastri Bhawan, Uttarkhand Secretariat, Dehradun T: 0135-2712802 M: 8171112233 secy-for-ua@nic.in</p>
28.	West Bengal	<p><b>For Madarssas</b> Commissioner Govt. of West Bengal Minority Affairs &amp; Madrasah Education Department, “NABANNA” 325, Sarat Chatterjee Road, Howrah-711102 (West Bengal) T : 033-22501015 / 22145667 F : 033-22141708 obaidurrahman.rahman@gmail.com</p>	<p><b>For Madarssas</b> Commissioner Govt. of West Bengal Minority Affairs &amp; Madrasah Education Department, “NABANNA” 325, Sarat Chatterjee Road, Howrah-711102 (West Bengal) T : 033-22501015 / 22145667 F : 033-22141708 obaidurrahman.rahman@gmail.com</p>



S.No.	State	Competent Authority under Section 10	Authority under Section 12(B)
		<b>For Other Institutions</b> Special Secretary Govt. of West Bengal Department of Higher Education, Bikash Bhawan, 6 <sup>th</sup> floor, Kolkata: 700091 M: 9475112122 Sse.hed-wb@gov.in	<b>For Other Institutions</b> Special Secretary Govt. of West Bengal Department of Higher Education, Bikash Bhawan, 6 <sup>th</sup> floor, Kolkata: 700091 M: 9475112122 Sse.hed-wb@gov.in
<b>UTs</b>			
1.	Andaman & Nicobar	Committee of Officers constituted vide Administration's Order No. 3593 dt. 16.11.2015 Secretariat, Andaman and Nicobar Administration, Port Blair T:03192-233345 and 03192-232777 M:8900911233 and 9531858717 Sec.edn.and@nic.in (Secy(Edn)) and dired.and@nic.in{Director (Edn)} F: 03192-2444201 and 03192-130101	Secretary (Edn.) A&N Administration, Secretariat, Port Blair T : 03192-230661 F : 03192-230101 Sec.edn.and@nic.in
2.	Chandigarh	Director School Education, Chandigarh Additional Deluxe Building, 1st Floor, Sector-9, Chandigarh-160009 T : 0172-2740411 F : 0172-2740695 dpi-chd@nic.in	Director School Education, Chandigarh Additional Deluxe Building, 1st Floor, Sector-9, Chandigarh-160009 T : 0172-2740411 F : 0172-2740695 dpi-chd@nic.in
3.	Dadar & Nagar Haveli	—	—



S.No.	State	Competent Authority under Section 10	Authority under Section 12(B)
4.	Daman & Diu	Director (Education) Secretariat, Moti Daman T : 0260-2231170 / 2230088 F : 0260-2231170 adedn-dmn-dd@nic.in	Asstt. Director (Education) Directorate of Education, Nani Daman T : 0260-2255126 F : 0260-2255126 Daman.education@gmail.com
5.	Delhi		Assistant Director of Education (ACT) Directorate of Education, Government of NCT of Delhi, R. No. 214-A, Old Secretariat, Delhi – 110 054 diredu@nic.in  Director of Education Higher Education Department, Govt. of NCT of Delhi, 5, Shyamnath Marg, Delhi-110054
6.	J&K	–	–
7.	Laddakh	–	–
8.	Lakshadweep	Director of Education Department of Education, Kavaratti, UT of Lakshadweep T: 04896262241 M:9188655501 askerupsc@gmail.com	
9.	Puducherry	For School Educational Institutions Secretary to Govt. (Education) Chief Secretariat No. 1, Goubert Avenue, Beach Road, Puducherry-605001	Order pending from Ministry of Home Affairs to appoint CA in MSC cases



S.No.	State	Competent Authority under Section 10	Authority under Section 12(B)
		<p>T : 0413-2334144 F : 0413-2334144 dc.pon@nic.in</p> <p><b>For Higher Educational Institutions</b> Lieutenant Governor Raj Nivas, Puducherry – 605001 T : 0413-2334051 F : 0413-2334025 Lg.pon@nic.in</p>	

## ANNEXURE-4

### STATE-WISE NUMBER DETAILS OF MINORITY STATUS CERTIFICATES ISSUED (2005-06 TO 2020-21)

State	YEAR WISE BREAK UP																Total No.	
	2005-06	2006-07	2007-08	2008-09	2009-10	2010-11	2011-12	2012-13	2013-14	2014-15	2015-16	2016-17	2017-18	2018-19	2019-20	2020-21	2020-21 of MSC	
1 Andaman	0	4	1	0	0	1	0	1	0	1	0	0	1	0	0	0	9	
2 Andhra Pradesh	5	20	12	11	25	4	32	25	95	126	35	29	17	0	0	0	436	
3 Arunachal Pradesh	0	1	1	1	5	0	0	12	1	0	1	1	0	1	0	0	24	
4 Assam	0	2	7	10	13	74	41	31	19	5	8	6	2	3	0	0	221	
5 Bihar	1	5	22	12	5	4	27	4	16	10	12	21	6	3	0	0	148	
6 Chandigarh	0	4	1	1	1	2	2	3	3	1	2	0	0	0	0	0	20	
7 Chhattisgarh	0	1	6	3	47	18	88	8	24	26	8	2	1	0	0	0	232	
8 D&N Haveli	0	4	0	0	0	0	0	0	0	0	0	0	0	0	0	0	4	
9 Daman	0	1	0	0	0	0	0	0	0	0	0	0	0	0	0	0	1	
10 Delhi	22	21	11	8	12	20	36	33	30	19	14	21	2	0	2	0	251	
11 Goa	0	12	45	13	82	1	5	1	2	0	2	1	1	0	0	0	165	
12 Gujarat	1	2	6	3	7	7	3	0	5	1	11	10	2	4	0	0	62	
13 Haryana	1	23	10	1	4	6	23	23	27	11	22	11	7	11	1	0	181	
14 Himachal Pradesh	0	11	4	1	0	2	3	2	0	0	1	2	1	0	0	0	27	
15 Jharkhand	0	3	19	8	3	1	6	16	21	8	9	7	3	2	0	0	106	
16 Karnataka	0	11	21	20	11	3	12	73	115	201	120	79	33	16	0	0	715	
17 Kerala	0	11	112	81	640	964	987	587	471	446	172	147	42	26	1	0	4687	
18 Lakshadweep	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	
19 Madhya Pradesh	0	24	15	8	25	40	63	71	87	20	61	39	46	16	6	5	526	
20 Maharashtra	12	27	24	21	7	1	13	37	9	18	4	17	9	0	0	0	199	
21 Manipur	0	1	0	1	0	32	0	0	1	0	0	1	1	0	0	0	37	











**ANNUAL REPORT  
2020-21**



**National Commission For Minority Educational Institutions**

Ministry of Human Resource Development

Government of India

5 Sansad Marg, Patel Chowk, New Delhi - 110 001





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