

## **CHAPTER 1 – INTRODUCTION**

Section 16 of the National Commission for Minority Educational Institutions (NCMEI) Act, 2004 obligates the Commission to lay its Annual Report giving the full account of its activities during the previous financial year and forward a copy of the same to the Central Government. This is the 9<sup>th</sup> Annual Report of the Commission for the financial year 2013-14. The report gives a complete account of all its activities during the previous financial year.

The National Commission for Minority Educational Institutions (NCMEI) was established through the promulgation of an Ordinance dated 11th November 2004 which was replaced by NCMEI Act passed by the Parliament in December 2004. The Ministry of Human Resource Development constituted the Commission on 16th November 2004 with its Headquarters in New Delhi. On 26th November 2004 Government issued notification appointing Justice M.S.A. Siddiqui as its first Chairman and 2 other members of the Commission.

**NCMEI Act, 2004:** The National Commission for Minority Educational Institutions Act, 2004 (2 of 2005) was notified on 6th January 2005. The National Commission for Minority Educational Institutions has been constituted under the Act. The main functions and powers of the Commission are:

- (a) advise the Central Government or any State Government on any question relating to the education of minorities that may be referred to it;
- (b) enquire, *suo motu*, or on a petition presented to it by any Minority Educational Institution, or any 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 Minority Educational Institution and declare its status as such;
- (g) make recommendations to the appropriate Government for the effective, implementation of programmes and schemes relating to the Minority Educational Institutions; 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.

**NCMEI (Amendment) Act, 2006:** On the basis of the suggestions received from various quarters for making the Commission more proactive and its functioning more specific, recommendations were made by the Commission to the Government for carrying out amendments to the Act. The Government introduced the National Commission for Minority Educational Institutions (Amendment) Bill 2005 in Parliament. However, in the wake of 93<sup>rd</sup> constitutional amendment passed by the Parliament incorporating Article 15 (5) to the Constitution making specific provision for educational advancement of the Scheduled Castes, Scheduled Tribes and socially and educationally backward classes of the citizens, it became expedient to bring out the amendments to the NCMEI Act through an Ordinance. Accordingly, an Ordinance was notified by the Government on 23rd January, 2006 which was later on replaced by the National Commission for Minority Educational Institutions (Amendment) Act, 2006 passed by the Parliament and notified on 29th March, 2006.

The amendment under the National Commission for Minority Educational Institutions Amendment Act, 2006 brought all affiliating universities within the ambit of the Act to afford a wider choice to the minority educational institutions with regard to affiliation. New Sections were incorporated to maintain the sanctity of the proceedings of the Commission and to amplify the powers of the Commission to enquire into matters relating to deprivation of educational rights of the minorities by drafting the services of any officer of the Central or State Governments. The Commission was empowered to decide on questions relating to Minority Status of educational institutions and to cancel the Minority Status of those institutions which had failed to adhere to the approved norms. A deeming provision with reference to obtaining 'No Objection Certificate (NOC)' by the minority educational institutions from the State Governments was also incorporated, where under, a Minority Educational Institution could proceed with the establishment of the same if the State Government did not

communicate its decision on granting NOC within 90 days. The Commission was also granted appellate jurisdiction in matters of refusal by the State Governments to grant NOC for establishing a minority educational institution.

The said amendment inserted, among others, Section 12F under which the jurisdiction of all courts, except the Supreme Court and High Courts exercising writ jurisdiction, was barred to entertain any direct applications or other proceeding in respect of any order of the Commission. Section 12F of NCMEI Act, 2004 reads as under:

**12F. “Bar of jurisdiction** – 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.”

#### **NCMEI Amendment Act 2010**

Subsequently, various suggestions were received about the provision in Section 12B (4) of the NCMEI Act suggesting deletion of the provision of consultation with the State Government. Many suggestions were received about the need to make amendment in Section 2(g) regarding the definition of minority educational institutions where universities were excluded. Suggestions were also made relating to the need to remove the ambiguity in the provision of Section 10 concerning grant of ‘No Objection Certificate’ for establishment of a minority educational institution. The suggestions were examined in the Commission. It was felt that the requirement of consultation with the State Government for deciding an appeal by the Commission as per Section 12B of the Act is against the principles of natural justice. It was viewed that the consultation with the State Government took away the substantive right of appeal created in favour of an aggrieved party. Mere reading of the provision in Section 10(1) of the Act gave an impression that ‘No Objection Certificate’ was required for establishment of a minority educational institution in all cases. However, as per the provisions of various laws regulating the establishment of such institutions especially relating to technical and professional colleges, it was not mandatory to get the ‘No Objection Certificate’ from the competent authority under the State Government. Therefore, necessary

amendment of Section 10(1) was felt necessary. Considering the steady increase in the workload of the Commission and to make the Commission more representative a provision for an additional Member over and above existing two Members was also felt necessary. Accordingly, on the recommendations of the Commission, the NCMEI Act, 2004 was amended to provide for the same. To make the Commission more representative, the Government amended National Commission for Minority Educational Institutions Act by Act 20 of 2010 w.e.f. 1.9.2010 increasing the number of members in the Commission from two to three.

### **About Commission**

The Commission is a quasi-judicial body and has been endowed with the powers of a Civil Court. This is the first time that a Commission has been established by the Central Government for protecting and safeguarding the rights of the minorities to establish and administer educational institutions of their choice. According to the provisions of the Act, Commission has adjudicatory functions and recommendatory powers. The mandate of the Commission is very wide. Its functions include, inter-alia, resolving the disputes regarding affiliation of minority educational institutions to a university, addressing the complaints regarding deprivation and violation of rights of minorities, to establish and administer educational institutions of their choice and to advise the Central Government and the State Governments on any question relating to the educational rights of the minorities referred to it.

The Commission which started functioning from Shastri Bhavan moved to its own premises at Jeevan Tara Building located at Sansad Marg, New Delhi in August 2005. Presently, the Commission is functioning from its office at 1st Floor (Gate No. 4), Jeevan Tara Building, 5, Sansad Marg, New Delhi. Initially Government sanctioned 22 posts for the Commission for providing necessary administrative and office support. Later, 11 additional posts were sanctioned by the Government. At present, Commission has the following 33 posts:-

<b>S. No.</b>	<b>Name of Post</b>	<b>Number</b>
1.	Secretary	1
2.	Deputy Secretary	1
3.	Sr. PPS	1

4.	Under Secretary	1
5.	Section Officer	1
6.	Private Secretary	5
7.	Assistant	1
8.	Personal Assistant	5
9.	Librarian	1
10.	Accountant	1
11.	Urdu Translator	1
12.	Stenographer Gr. 'D'	3
13.	Reader/ UDC	1
14.	LDC	2
15.	Staff Car Driver	1
16.	Daftry	1
17.	Peon	6
	<b>Total</b>	<b>33</b>

Some of the posts have been filled up by the Commission on deputation basis and some others have been filled through direct recruitment. Services of some officials have been engaged on contract basis as consultants pending finalization of recruitment rules for various posts in the Commission which are under consideration of the Government.

## **CHAPTER 2 – COMPOSITION AND FUNCTIONS OF THE COMMISSION**

The Commission was established through an Ordinance (No. 6 of 2004) notified on 11<sup>th</sup> November 2004. This was followed by the introduction of a Bill to replace the Ordinance and passing of the National Commission for Minority Educational Institutions Act, 2004 (2 of 2005) which was notified on 6th January 2005. The Parliament passed the NCMEI (Amendment) Act 2006 which was notified on 29th March 2006. The Act was further amended by the National Commission for Minority Educational Institutions (Amendment) Act, 2010.

The Government issued notification on 26th November 2004 appointing Justice M.S.A. Siddiqui as the first Chairperson. The Government appointed Justice M.S.A. Siddiqui as the Chairperson of the Commission for a further term of 5 years and he assumed charge on 18.12.2009. Dr. Mohinder Singh and Dr. Cyriac Thomas assumed charge as Members on 8th April 2010 and 12th April 2010 respectively for a term of five years each. Shri Zafar Agha assumed the charge of 3rd Member of the Commission on 26.3.2012.

The Functions of the Commission as per Section 11 of the Act are as follows:-

- (a) advise the Central Government or any State Government on any question relating to the education of minorities that may be referred to it;
- (b) enquire, *suo motu*, or on a petition presented to it by any Minority Educational Institution, or any 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 Minority Educational Institution and declare its status as such;
- (g) make recommendations to the appropriate Government for the effective, implementation of programmes and schemes relating to the Minority Educational Institutions; 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.

The powers of the Commission as per Section 12 of the Act are as follows:-

- (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 commissions for the examination of witnesses or documents; and
- (f) any other matter which may be prescribed.

Every proceeding before the Commission shall be deemed to be a judicial proceeding within the meaning of sections 193 and 228, and for the purposes of section 196, of the Indian Penal Code (45 of 1860) and 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).

Powers of the Commission include deciding all questions relating to the status of any institution as a minority educational institution. It also serves as an appellate authority in respect of disputes pertaining to minority status. Educational institutions aggrieved with the refusal of a competent authority to grant minority status can appeal to the Commission against such orders. The Commission has also power to cancel the minority status of an educational institution on grounds laid down in the Act.

The Commission has also powers to call for information while enquiring into the complaints of violation or deprivation of the educational rights of the minorities. Where an enquiry establishes violation or deprivation of educational rights of the minorities by a public servant, Commission may recommend to the concerned Government or authority to initiate disciplinary proceedings or such other legal or administrative action against the concerned person or persons as it may deem fit.

Only Supreme Court exercising writ jurisdiction under Article 32 and High Courts under Articles 226 and 227 of the Constitution of India can entertain any suit, application or proceedings in respect of any order made by the Commission.

The Commission receives grant from the Central Government after due appropriation made by the Parliament. The grant is utilized for meeting the expenses of the Commission. The Commission prepares the Annual Statement of Accounts in the form prescribed by the Central Government and the accounts are audited by the Comptroller and Auditor General of India.

The Chairperson, Members, Secretary, Officers and other employees of the Commission are deemed to be public servants within the meaning of Section 21 of the Indian Penal Code.

### **CHAPTER 3 – SITTINGS OF THE COMMISSION**

In terms of Section 12 (3) of NCMEI Act 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 Indian Penal Code and the Commission shall be 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, Commission conducts formal court sittings. A formal court room is available in the Commission's premises for the purpose.

During the year 2013-14 the Commission conducted a total number of 178 sittings as a court and heard 5042 cases as per details given below:

#### **Details of Court Sitting from 01.04.2013 to 31.03.2014**

<b>S. No.</b>	<b>Date of Sittings</b>	<b>Number of Cases</b>
1	1.4.2013	58
2	2.4.2013	27
3	3.4.2013	26
4	4.4.2013	18
5	8.4.2013	23
6	9.4.2013	21
7	10.4.2013	23
8	11.4.2013	26
9	15.4.2013	26
10	16.4.2013	25
11	17.4.2013	23
12	18.4.2013	17
13	22.4.2013	22
14	23.4.2013	22
15	25.4.2013	21
16	29.4.2013	73
17	30.4.2013	101
18	1.5.2013	42
19	2.5.2013	25
20	6.5.2013	31

21	7.5.2013	5
22	8.5.2013	38
23	9.5.2013	24
24	13.5.2013	28
25	14.5.2013	34
26	15.5.2013	31
27	16.5.2013	29
28	20.5.2013	35
29	21.5.2013	26
30	22.5.2013	37
31	23.5.2013	26
32	27.5.2013	26
33	28.5.2013	31
34	29.5.2013	26
35	30.5.2013	32
36	3.6.2013	24
37	4.6.2013	36
38	5.6.2013	36
39	6.6.2013	20
40	10.6.2013	35
41	11.6.2013	32
42	12.6.2013	43
43	13.6.2013	33
44	1.7.2013	28
45	2.7.2013	20
46	3.7.2013	34
47	4.7.2013	22
48	8.7.2013	31
49	9.7.2013	30
50	10.7.2013	27
51	11.7.2013	19
52	15.7.2013	19
53	16.7.2013	19
54	17.7.2013	1
55	18.7.2013	29
56	22.7.2013	27

57	23.7.2013	23
58	24.7.2013	31
59	25.7.2013	24
60	29.7.2013	25
61	30.7.2013	25
62	31.7.2013	31
63	1.8.2013	2
64	5.8.2013	26
65	6.8.2013	20
66	7.8.2013	35
67	8.8.2013	21
68	12.8.2013	43
69	13.8.2013	26
70	14.8.2013	27
71	19.8.2013	56
72	21.8.2013	40
73	22.8.2013	15
74	26.8.2013	29
75	27.8.2013	18
76	29.8.2013	27
77	2.9.2013	34
78	3.9.2013	24
79	4.9.2013	32
80	5.9.2013	22
81	9.9.2013	38
82	10.9.2013	14
83	11.9.2013	25
84	12.9.2013	26
85	16.9.2013	37
86	17.9.2013	27
87	18.9.2013	30
88	19.9.2013	34
89	20.9.2013	18
90	23.9.2013	17
91	24.9.2013	22
92	25.9.2013	28

93	26.9.2013	42
94	30.9.2013	29
95	1.10.2013	30
96	3.10.2013	34
97	7.10.2013	30
98	8.10.2013	22
99	9.10.2013	29
100	10.10.2013	27
101	21.10.2013	33
102	22.10.2013	24
103	23.10.2013	32
104	24.10.2013	22
105	28.10.2013	29
106	29.10.2013	27
107	30.10.2013	29
108	31.10.2013	18
109	4.11.2013	28
110	5.11.2013	20
111	6.11.2013	25
112	7.11.2013	25
113	13.11.2013	27
114	18.11.2013	30
115	19.11.2013	19
116	20.11.2013	35
117	21.11.2013	23
118	25.11.2013	31
119	26.11.2013	26
120	27.11.2013	30
121	2.12.2013	31
122	3.12.2013	16
123	5.12.2013	42
124	9.12.2013	31
125	11.12.2013	29
126	12.12.2013	27
127	16.12.2013	24
128	17.12.2013	19

129	18.12.2013	25
130	19.12.2013	9
131	1.1.2014	24
132	2.1.2014	30
133	6.1.2014	25
134	7.1.2014	24
135	8.1.2014	50
136	9.1.2014	22
137	13.1.2014	29
138	15.1.2014	28
139	16.1.2014	22
140	20.1.2014	36
141	21.1.2014	28
142	22.1.2014	30
143	23.1.2014	19
144	27.1.2014	31
145	28.1.2014	27
146	29.1.2014	36
147	30.1.2014	27
148	3.2.2014	18
149	4.2.2014	23
150	5.2.2014	33
151	6.2.2014	19
152	10.2.2014	23
153	11.2.2014	24
154	13.2.2014	46
155	17.2.2014	5
156	18.2.2014	31
157	19.2.2014	29
158	20.2.2014	24
159	24.2.2014	25
160	25.2.2014	25
161	26.2.2014	24
162	27.2.2014	32
163	3.3.2014	29
164	4.3.2014	39

165	5.3.2014	38
166	6.3.2014	29
167	10.3.2014	32
168	11.3.2014	28
169	12.3.2014	44
170	13.3.2014	23
171	18.3.2014	24
172	19.3.2014	44
173	20.3.2014	37
174	24.3.2014	44
175	25.3.2014	21
176	26.3.2014	28
177	27.3.2014	30
178	31.3.2014	39
	<b>Total</b>	<b>5042</b>

The Commission conducted more sittings as compared to the previous year 2012-13 and also heard more cases than the previous year which were 4269.

The details of Court sittings conducted and number of cases heard during the last eight years are as under:-

<b>Year</b>	<b>Sitting</b>	<b>Cases</b>
2005-06	45	1404
2006-07	80	3932
2007-08	73	2916
2008-09	93	3506
2009-10	121	4377
2010-11	130	4774
2011-12	162	5022
2012-13	171	4269
2013-14	178	5042

During the formal court sittings, cases where notices have been issued were taken up. In addition to the formal number of sittings mentioned above, Commission has taken up fresh petitions on a daily basis and has passed orders. For fresh petitions the presence of petitioner or respondent is not necessary. The Commission has also listed more number of cases in each sitting to ensure expeditious disposal and also to ensure that backlog of cases of previous years were given priority. Even

though there were constraints of shortage of staff, disposal rate of cases during the year has been on higher side as compared to the previous years.

Maximum number of 19 sittings were held in the month of July 2013. This was followed by 18 sittings in the month of May and September 2013 and 17 sittings in the month of April 2013 and January 2014. Every endeavor has been made to conduct as many number of sittings on as many number of days as possible and also to list maximum number of cases in each of its sittings.

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 Members is present, the court proceedings could be conducted and cases taken up for decision.

All cases which are listed on a particular day are taken up and heard on that day itself and appropriate orders are passed by the Chairman/Members present. Adequate notice period is given to the respondents. In case of pleading of urgency by petitioners, Commission gives early date of hearing. Commission also takes into consideration the inconvenience expressed by the parties to appear on a particular date and accordingly adjournments are granted to enable the parties to put up their cases effectively in consonance with the principle of natural justice. Commission has never insisted on engagement of a counsel to represent the petitioner. In other words, any petitioner who wants to argue his/ her case personally is given the liberty to do so.

The Commission's endeavor has been to provide a cost-free forum to the members of the minority communities for redressal of their grievances relating to their educational rights enshrined in the Constitution. Therefore, the Commission has not prescribed any Court fee. Since a large number of petitioners are not conversant with the formalities and procedures of a Court, the Commission has even accepted petitions which are not in conformity with the law of pleadings.

## **CHAPTER 4 – RIGHT TO INFORMATION (RTI)**

Section 12 (B) of NCMEI Act mandates that every proceeding before the Commission shall be deemed to be a judicial proceeding Code of Criminal Procedure 1973 (2 of 1974). The Commission being a quasi judicial organisation interacts with a number of petitioners, advocates and other stakeholders. As a result, the number of RTI applications received by the Commission is increasing every year.

With a view to promote transparency and accountability in the functioning of the Commission by securing to the citizens the right to access, the information under the control of public authority, the Commission has placed all obligatory information under Section 4 (i) of the RTI Act, 2005 on the Website of NCMEI viz [www.ncmei.gov.in](http://www.ncmei.gov.in) under the Right to Information Act, 2005. During 2013-14, Shri D.R. Bhalla, Deputy Secretary, NCMEI functioned as 'Public Information Officer' and Hon'ble Chairman, NCMEI was the 'Appellate Authority'.

During the year under report the Commission received 167 RTI application and 18 appeals. All the applications/appeals were disposed of within the prescribed time limit.

## **CHAPTER 5 – HIGHLIGHTS OF THE YEAR**

The Commission being a quasi-judicial autonomous tribunal, the core function of the Commission relates to adjudicatory and appellate jurisdiction.

During the year under report, the Commission registered 2606 petitions and issued 1673 Minority Status Certificate to Minority Educational Institutions. Details of State-wise minority status certificate issued is at **Annexure-I**.

Commission was concerned with the educational gap of the children who were affected by the communal riots in Muzaffarnagar. Through his letter dated 22.1.2014 addressed to former Prime Minister, Dr. Manmohan Singh, the Hon'ble Chairman informed that a meeting of some of managers of the educational institutions of the Muslim community was organized by him. On his appeal M/s Khalid Nadvi of Bangalore and Abubaker Mansoor of Moradabad (U.P.) have adopted 71 children for their educational rehabilitation. These children have been admitted in Madarasas/ Schools having lodging and boarding facilities. Concerted efforts were on for adoption of more children for their educational rehabilitation.

Copy of the letter written by Hon'ble Chairman to the former Hon'ble Prime Minister of India is at **Annexure-II**.

The former Prime Minister of India acknowledged the letter and appreciated the initiatives for education of the children affected by Muzaffarnagar riots through his letter dated 25.1.2014 which is at **Annexure-III**.

In pursuance to notification dated 23.10.1993 issued by Ministry of Welfare, Ministry of HRD vide their notification dated 18.1.2005 notified five communities as minority communities under clause (f) of Section 2 of the National Commission for Minority Educational Institutions Act, 2004.

The Ministry of HRD was requested to notify Jain community also as minority community under clause (f) of Section 2 of NCMEI Act, 2004. Subsequently, the notification was issued by Ministry of Human Resource Development notifying Jain community as minority community. The same is at **Annexure-IV**.

## **CHAPTER 6 – TOURS AND VISITS**

The basic purpose of undertaking visits by Hon'ble Chairman/Members is to interact with the stakeholders and members of the minority community with a view to understand problems/difficulties faced by the various stakeholders and to provide them with a forum for discussion of their problems. This also affords 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 the Commission. This opportunity is also made use of for interacting with some of the political functionaries and the bureaucracies in various State Governments. The tours and visits of the Hon'ble Chairman and Members of the Commission 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.

**Details of the tours undertaken by the Hon'ble Chairman to various places during the year 2013-14 are as under:-**

<b>S. No.</b>	<b>Dates of Tour</b>	<b>Stations visited</b>
1.	7 <sup>th</sup> April 2013	Jhansi, Uttar Pradesh
2.	14 <sup>th</sup> to 15 April 2013	Indore, Madhya Pradesh
3.	20 <sup>th</sup> & 21 <sup>st</sup> April 2013	Aligarh, Uttar Pradesh
4.	27 <sup>th</sup> to 29 <sup>th</sup> April 2013	Varanasi, Azamgarh & Mau, Uttar Pradesh.
5.	1 <sup>st</sup> May 2013	Lucknow, Uttar Pradesh
6.	2 <sup>nd</sup> to 4 <sup>th</sup> May 2013	Bangalore, Karnataka
7.	10 <sup>th</sup> to 13 <sup>th</sup> May 2013	Calicut and Wayanad, Kerala
8.	15 <sup>th</sup> to 17 <sup>th</sup> June 2013	Bareilly, Uttar Pradesh
9.	22 <sup>nd</sup> and 23 <sup>rd</sup> June 2013	Ahmedabad and Modasa, Distt. Sabarkantha, Gujarat.
10.	6 <sup>th</sup> & 7 <sup>th</sup> July 2013	Jaipur, Rajasthan
11.	15 <sup>th</sup> to 18 <sup>th</sup> August 2013	Cochin (Ernakulam District), Thrissur, and Palakkad, Kerala and Coimbatore, Tamil Nadu.
12.	24 <sup>th</sup> & 25 <sup>th</sup> August 2013	Kolkata, West Bengal
13.	30 <sup>th</sup> August to 1 <sup>st</sup> September 2013	Chennai, Vellore and Krishnagiri (Tamil Nadu) and Bangalore (Karnataka).
14.	7 <sup>th</sup> September 2013	Meerut, Uttar Pradesh
15.	22 <sup>nd</sup> September 2013	Aligarh, Uttar Pradesh

16.	11 <sup>th</sup> to 20 <sup>th</sup> October 2013	Jabalpur, Madhya Pradesh.
17.	26 <sup>th</sup> & 27 <sup>th</sup> October 2013	Aligarh, Uttar Pradesh
18.	31 <sup>st</sup> October to 2 <sup>nd</sup> November 2013	Moradabad and Amroha, Uttar Pradesh
19.	9 <sup>th</sup> to 12 <sup>th</sup> November 2013	Kolkata and Malda, West Bengal
20.	28 <sup>th</sup> November 2013	Hapur, Uttar Pradesh
21.	30 <sup>th</sup> November to 2 <sup>nd</sup> December 2013	Guwahati and Hojai, Distt. Nagaon, Assam
22.	21 <sup>st</sup> to 23 <sup>rd</sup> December 2013	Nagpur, Maharashtra
23.	27 <sup>th</sup> December 2013 to 1 <sup>st</sup> January 2014	Calicut and Malappuram, Kerala
24.	25 <sup>th</sup> January 2014	Moradabad and Amroha, Uttar Pradesh
25.	31 <sup>st</sup> January to 3 <sup>rd</sup> February 2014	Mangalore and Bangalore, Karnataka
26.	7 <sup>th</sup> February 2014	Saharanpur, Uttar Pradesh.
27.	15 <sup>th</sup> February 2014	Kanpur, Uttar Pradesh
28.	23 <sup>rd</sup> February 2014	Saharanpur, Uttar Pradesh and Roorkee, Uttarakhand
29.	6 <sup>th</sup> March 2014	Lucknow and Barabanki, Uttar Pradesh
30.	15 <sup>th</sup> & 16 <sup>th</sup> March 2014	Pune and Kolhapur, Maharashtra

While delivering an inaugural speech at the Seminar held on 10.11.2013 at Malda, West Bengal, the Hon'ble Chairman apprised the audience about various beneficial schemes launched by the Central Government for the minorities. Due to lack of good NGOs in the Muslim community, Muslims could not take advantage of these beneficial schemes. During his speech he also cited an example relating to abuse/misuse of one of the schemes launched by the HRD Ministry on his recommendations. On January 13, 2011, the Hon'ble Chairman wrote a letter to Hon'ble the Prime Minister requesting him to take some affirmative actions for empowering the Kashmiri youths through quality education, which would help them in joining the mainstream. Accepting his advice, Hon'ble the Prime Minister directed the HRD Ministry to consider his aforesaid proposal. Pursuant the said directions, the HRD Ministry launched a comprehensive scheme and one of the schemes was the special scholarships scheme for Kashmiri students. Immediately on launching the said scheme, some pernicious elements became active for misusing the same. As per a newspaper reports, a self styled agent from Kashmir prescribed a form on his own and sold it @ Rs. 2000/- per form to the beneficiaries of the said scheme and thereby earned crores of

rupees. No such form was prescribed by the HRD Ministry for availing benefits of the said scheme. According to the said press report, one NGO contacted Manager of B.Ed. College of one state and settled a deal for providing Kashmir students at a handsome rate of commission. These B.Ed. colleges did not have proper infrastructural and instructional facilities for imparting quality education. They did not have even a hostel to accommodate these students. Consequently, majority students from Kashmir returned back to their home towns. Thus a very beneficial scheme launched for empowering the Kashmiri youth was derailed by these pernicious elements.

On 30.12.2013, Hon'ble Chairman delivered convocation address of the MES Medical College, Perintalmanna, Malappuram District, Kerala. The Hon'ble Chairman also interacted with the faculty members and the students.

During his address the Hon'ble Chairman emphasized that our education system needs revolutionary change, innovation and the desire to excel in all walk of life. Instead knowledge absorbing society, we have to create a knowledge generating society. There is a need to promote internationalism in education. Our educational institutions need to prepare themselves for global system of education. Vivien Sewart, Vice President, Education Asia Society has said – “Globalization poses questions about the excellence, equity and content of our education system, which we must take into account, if we are to adequately prepare our students for tomorrow”.

In his speech the Hon'ble Chairman also quoted the statement of Prof. Richard Levin, President of the Yale University , which is as under:-

“The globalization of the university is in part an evolutionary development. But creating the global university is also a revolutionary development – signaling distinct changes in the substance of teaching and research, the demographic characteristics of students and scholars, the scope and breath of external collaborations and the engagement of the university with new audiences. When I speak of becoming a global university, I envision a curriculum and a research agenda permeated by awareness that political, social and cultural phenomena in any part of the world can no longer be fully understood in isolation.”

On 31.12.2013, the Hon'ble Chairman addressed a gathering in the University of Calicut (Kerala). He laid emphasis on enhancement in quality education in universities and institutions of higher learning. He said —

“According to the National Knowledge Commission our colleges are only marginally better than good higher secondary schools. Our universities which are to be the prime center of scholarship, play an insignificant role in generating a base for creating new knowledge and technology. The research potential of our universities is alarmingly poor. This is a sad commentary on our system of education. There is a pressing need to improve the health of higher education and research. Infra-structural deficiency in education sector needs to be urgently addressed. There is shocking shortage of well stocked and accessible libraries, labs and other facilities incidental thereto in our educational institutions. We are living in a market driven economy today and that there are ready consumers for many more things than there were previously. Some of the reputed universities of the world are striving hard to promote internationalism in education. We must strive to develop the concept of global university of excellence and make the existing educational institutions to promote internationalism in higher education. This initiative would create new opportunities of promoting growth and development in education. Since the development of a knowledge economy is one of the fundamental objectives of higher education, the establishment of educational institutions of global excellence ought to become our priority. The future role of higher education in our country is largely dependent on the role of the private sector as it is difficult for the State Governments to wholly support the financial commitments needed to establish and sustain reputed institutions of higher education. In this context, it is important that the private sector should be encouraged to establish educational institutions of global excellence. But the Government must formulate a realistic policy for the regulated development of such private institutions”.

Hon'ble Chairman attended another convocation address on 1<sup>st</sup> February 2014 at Yenepoya University, Mangalore and delivered his convocation address. A copy of the convocation address is at **Annexure-V.**

**Details of the tours undertaken by the Hon'ble Members to various places during the year 2013-14 are as under:-**

**Dr. Mohinder Singh, Hon'ble Member**

<b>S. No.</b>	<b>Dates of Tour</b>	<b>Stations visited</b>
1.	3 <sup>rd</sup> September 2013	Amritsar, Punjab
2.	6 <sup>th</sup> November 2013	Patiala, Punjab
3.	9 <sup>th</sup> November 2013	Anandpur Sahib to address the faculty members and students of Khalsa College, Anandpur Sahib
4.	22 <sup>nd</sup> November 2013	Jaipur
5.	29 <sup>th</sup> November 2013	Amritsar, Punjab
6.	19 <sup>th</sup> January 2014,	Birbhum, West Bengal
7.	2 <sup>nd</sup> March 2014	Mumbai
8.	On 20 <sup>th</sup> March 2014	Patiala

During the year 2013-14, Dr. Mohinder Singh, Hon'ble Member of the Commission, visited various educational institutions and universities including Guru Nanak Dev University, Amritsar, Punjabi University, Patiala, Viswa Bharati Santiniketan (West Bengal) and Jagadguru Ramanandacharya Rajasthan Sanskrit University, Jaipur. Details are as follows:

On 4<sup>th</sup> May 2013, Dr. Mohinder Singh participated in a seminar organised by Punjabi Academy, New Delhi, to mark the birth centenary of Balraj Sahni, a well-known theatre personality. Dr. Mohinder Singh spoke about Balraj Sahni as a litterateur and highlighted his contribution towards promotion of Punjabi language, literature and culture. He also mentioned that how Balraj Sahni during his stay in Santiniketan was inspired by Gurudev Rabindra Nath Tagore to start writing in Punjabi, his mother tongue. Balraj Sahni was so surcharged by Gurudev's message that he purchased a portable Punjabi typewriter and started typing his articles which were subsequently published in book form.

On 03<sup>rd</sup> September 2013, Dr. Mohinder Singh, visited Khalsa College, Amritsar where he delivered a lecture on Educational Heritage of the Sikhs. While talking about development of modern education among the Sikh community, Dr. Mohinder Singh

emphasised importance of modern education with ethics and moral values. He also attended a meeting at Center on Studies in Sri Guru Granth Sahib, Guru Nanak Dev University, Amritsar.

On 6<sup>th</sup> November 2013, Dr. Mohinder Singh, visited Patiala where he presided over a Seminar in connection with the Centenary Celebration of Ghadar Movement at Punjabi University, Patiala,. During his Address Dr.Mohinder Singh highlighted how the Ghadarite heroes were able to transcend religious and political boundaries and fight unitedly for liberation of their motherland.

On 9<sup>th</sup> November 2013, Dr. Mohinder Singh visited Anandpur Sahib to address the faculty members and students of Khalsa College, Anandpur Sahib. During the function Dr.Mohinder Singh made a Power Point Presentation on rare Guru Granth Sahib Manuscripts and emphasised the need to conserve this tangible heritage of the Sikh community.

On 22<sup>nd</sup> November 2013, Dr. Mohinder Singh visited Jaipur to attend a meeting at Jagadguru Ramanandacharya Rajasthan Sanskrit University. While addressing the meeting wherein the Vice-Chancellor and faculty members were present, Dr.Mohinder Singh highlighted the importance of promoting Sanskrit as it was the basic source for traditional Indian wisdom. He also mentioned how the Indian system of Gurukul promoted education with ethical and moral values. During the same visit he also spoke on Sikhism in connection with 150<sup>th</sup> birthday celebration of Swami Vivekananda organised by Ramakrishana Mission, Jaipur. During the presentation Dr. Mohinder Singh mentioned how Swami Vivekananda inspired the Indian youth and became symbol of national pride.

On 29<sup>th</sup> November 2013, Dr. Mohinder Singh, Hon'ble Member of the Commission, visited Amritsar to deliver Keynote Address at the Symposium hosted by Centre on Studies in Sri Guru Granth Sahib, Guru Nanak Dev University, Amritsar, in collaboration with National Foundation for Communal Harmony, New Delhi. In his address, Dr.Mohinder Singh mentioned India's unique model of unity in diversity. Prof.Ajaib Singh, Vice Chancellor of the Guru Nanak Dev University, Amritsar presided over the function.

On 19<sup>th</sup> January 2014, the Hon'ble member Dr. Mohinder Singh was invited by Visva-Bharati, Santiniketan, Birbhum, West Bengal, to speak at "Inter-religious Understanding Seminar" which was organised to mark the 125 years of Santiniketan Charitable Trust founded by Maharshi Debendranath Tagore. In his address Dr. Mohinder Singh referred to Rabindranath Tagore's visit to the Golden Temple as a young child with his father and how he was inspired by devotional singing in the Temple.

On 20<sup>th</sup> February 2014, Dr. Mohinder Singh was invited by All India Association for Christian Higher Education (AIACHE), New Delhi to speak on the Role of Religion in Nation Building – The Sikh Perspective.

On 02<sup>nd</sup> March 2014, Dr. Mohinder Singh, Hon'ble Member of the Commission visited Mumbai to deliver Inaugural Address at International Conference on Interfaith Dialogue on relevance of Guru Granth Sahib. Presidential Address of this conference was delivered by Dr. Jaspal Singh, Vice-Chancellor, Punjabi University, Patiala. In his Address Dr. Mohinder Singh highlighted how the teachings of Hindu Bhaktas, Sufi Saints and Sikh Gurus contained in Guru Granth Sahib promoted unity of India by emphasising on transcending religious boundaries.

On 20<sup>th</sup> March 2014, the Hon'ble member Dr. Mohinder Singh visited Patiala to deliver Convocation Address at Punjabi University, Patiala. The function was presided over by the Governor of Punjab. In the Address which was printed both in English and Punjabi and distributed to faculty and students, the focus of Dr. Mohinder Singh's Address was how democracy and education empowered ordinary citizens. While tracing the history of education among the Sikhs he highlighted the role of Sikh Educational Conference which created network of schools and colleges. He recollected his association with the University and recalled how inspiring was the Inaugural Address of Dr. S. Radhakrishnan, the President of India, who formally inaugurated the Punjabi University, Patiala, on 24<sup>th</sup> June, 1962. He called upon the faculty to remember Dr. Radhakrishnan's inspiring words that "education should help to meet moral challenge of the age and it should be liberating of life giving".

On 22<sup>nd</sup> March 2014, Dr. Mohinder Singh was invited to deliver a lecture on "Ethics & Values in Public Governance" organised by Institute of Secretariat Training

and Management (ISTM) (DOPT), New Delhi. In his presentation Dr.Mohinder Singh highlighted how important it was for those who are in middle level of governance to follow ethics in public governance and ensure transparency at different levels of their career.

**Dr. Cyriac Thomas, Hon'ble Member**

<b>S. No.</b>	<b>Dates of Tour</b>	<b>Stations visited</b>
1.	5 <sup>th</sup> to 8 <sup>th</sup> April 2013	Muvattupuzha and Thodupuzha, Kerala.
2.	17 <sup>th</sup> & 18 <sup>th</sup> April 2013	Guwahati
3.	19 <sup>th</sup> to 28 <sup>th</sup> April 2013	Muvattupuzha (Ernakulam District), Palai, Trichur, Calicut, Pathanamthitta, Kerala.
4.	13 <sup>th</sup> to 15 <sup>th</sup> June 2013	Shillong, Meghalaya
5.	2 <sup>nd</sup> to 7 <sup>th</sup> July 2013	Kerala and Tamil Nadu
6.	18 <sup>th</sup> to 21 <sup>st</sup> July 2013	Karnataka
7.	8 <sup>th</sup> to 17 <sup>th</sup> August 2013	Pathanamthitta Distt., Calicut, Kottayam, Trichur (Kerala)
8.	6 <sup>th</sup> & 7 <sup>th</sup> September 2013	Madhya Pradesh
9.	24 <sup>th</sup> November to 1 <sup>st</sup> December 2014	Calicut, Idukki, Palghat (Kerala)
10.	16 <sup>th</sup> to 25 <sup>th</sup> January 2014	Idukki, Trivandrum (Kerala)
11.	5 <sup>th</sup> to 11 <sup>th</sup> February 2014	Kottayam, Kerala
12.	13 <sup>th</sup> to 18 <sup>th</sup> February 2014	Sharjah Emirates National School, Sharjah, UAE.
13.	13 <sup>th</sup> to 15 <sup>th</sup> March 2014	Satna, Madhya Pradesh.
14.	20 <sup>th</sup> to 23 <sup>rd</sup> March 2014	Bagdogra and Darjeeling, West Bengal

Hon'ble Member Dr. Cyriac Thomas visited Kerala (5<sup>th</sup> April to 8<sup>th</sup> April, 2013)- addressing a consultation of the Heads of Educational Institutions of the CMI Fathers at Muvattupuzha (Kerala) and delivering Bishop Dr George Punnakkottil Jubilee Lecture on 'Secularism and Minority Rights : the Indian Scenario' at Newman College, Thodupuzha (Kerala).

Hon'ble Member Dr. Cyriac Thomas visited Guwahati (Assam) on the 17<sup>th</sup> and 18<sup>th</sup> of April, 2013 and delivered the Keynote Address at the Consultational Workshop of representatives of Minority Educational Institutions on the topic "Rights of Minorities" at the Bosco Reach Out, Ullubari (Guwahati). The Member while explaining

the rights of the minorities ensured by the Constitution of India, emphasized the accompanying obligations of the minorities to involve themselves in the Nation building activities of our mother land. Hon'ble Member also cautioned the representatives of the minority educational institutions against the possible misuse of the minority rights by the minority institutions.

From 19<sup>th</sup> April to 28<sup>th</sup> April, 2013 the Hon'ble Member was on a visit to Kerala and addressed a Seminar organised by the Nirmala College, Muvattupuzha (Ernakulam dt.) addressing the Conference on the sacredness and sanctity of the minority rights. On the 21<sup>st</sup> April, 2013 the Hon'ble Member was the Guest of Honour at the 75<sup>th</sup> b'day celebrations of the 'Star of the Church', Shri John Kacharamattom, a veteran Catholic leader, celebrity writer and historian at the Pastoral Centre, Palai. On 22<sup>nd</sup> April, 2013 the Hon'ble Member held discussions with His Grace the Archbishop of Trichur and President of the Kerala Catholic Bishops Council, Mar Andrews Thazhath at the Metropolitan Archbishop's House, Trichur. On the 23<sup>rd</sup> April, 2013 the Hon'ble Member visited Calicut and addressed a Seminar organized by the St. Thomas Academy of Research & Training (START). On the 27<sup>th</sup> April, 2013 Hon'ble Member was the Guest of Honour at the 96<sup>th</sup> b'day celebrations of His Grace Dr Phillipose Mar Chrysthosham, the Senior Most Christian Bishop of India at Pathanamthitta (Kerala).

Hon'ble Member Dr. Cyriac Thomas visited Shillong (Meghalaya) from 13<sup>th</sup> to 15<sup>th</sup> June, 2013 and addressed the regional conference of the All India Association of Christian Higher Education (AIACHE), emphasizing the need of ensuring the quality assurance and excellence level in the educational sector and the specific role to be played by the Christian institutions on that count.

From July 2<sup>nd</sup> to July 7<sup>th</sup>, 2013 the Hon'ble Member visited Kerala and Tamil Nadu, addressing the Church Day Celebrations organized by the Syro Malabar Catholic Church at Mount St Thomas, Kakkanad (Ernakulam), presided over by His Eminence Cardinal George Alencherry on July 3<sup>rd</sup>, 2013 and delivered Convocation Address of the Michael Job Educational Institutions, Coimbatore (Tamil Nadu) on July 6<sup>th</sup>, 2013.

Hon'ble Member was on a visit to Karnataka from 18<sup>th</sup> to 21<sup>st</sup> July, 2013 and addressed a Seminar of the Principals and Managers of the Christian educational institutions at the Bishop's House auditorium, Mandya (Mysore), stressing the need to have a transparent system of administration of Minority Educational Institutions as a precaution to preserve the credibility range of the Christian educational institutions as such.

From 8<sup>th</sup> August to 17<sup>th</sup> August, 2013 the Hon'ble Member Dr. Cyriac Thomas visited Kerala, addressing various conferences including the Global Alumni Meet at St Thomas College, Kozhencherry (Pathanamthitta dt.), specially honouring Prof. P J Kurien, Deputy Chairman, Rajya Sabha, a former Member of the faculty of the College, and also attending the 'Guruvandanam' function.

On 12<sup>th</sup> August, 2013 the Hon'ble Member addressed an Educational Seminar at Calicut organized by the START Institute on the topic – "Constitution, Democracy and Secularism : Perspectives in Education". On August 13<sup>th</sup>, 2013 the Hon'ble Member also addressed another seminar in the St Xavier's College, Calicut on "Indian Constitution and Minority Rights."

The same afternoon the Hon'ble Member inaugurated the Birth Centenary Celebrations of the Freedom Fighter, Celebrity Gandhian and Social Reformer Prof. M P Manmathan at Calicut Corporation Town Hall, Calicut.

On the 14<sup>th</sup> August, 2013 the Hon'ble Member addressed an Independence Day function organized by the Rotary Club of Kottayam as Chief Guest.

On the 15<sup>th</sup> August, 2013 the Hon'ble Member was the Chief Guest at the Independence Day Celebrations in Mar Baselios Public School, Kottayam, hoisting the National Flag and delivering the Independence Day address.

On the 16<sup>th</sup> August, 2013 the Hon'ble Member along with the Hon'ble Chairman, NCMEI, Justice Shri M. S. A. Siddiqui addressed a Conference of the heads of Minority Educational Institutions organized by the President of the Kerala

Catholic Bishops Council, Archbishop Mar Andrews Thazath at St. Thomas College Auditorium, Trichur.

On the 17<sup>th</sup> August, 2013 the Hon'ble Member inaugurated a UGC National Seminar on Education at the St Joseph's Training College, Mannanam (Kottayam).

The Hon'ble Member Dr. Cyriac Thomas was on a visit to Madhya Pradesh on Sept. 6<sup>th</sup> and 7<sup>th</sup>, 2013 addressing the Madhya Pradesh Regional Conference of the Christian Minority Educational Institutions.

The Hon'ble Member visited Kerala from November 24<sup>th</sup> to December 1<sup>st</sup>, 2013 attending various functions including the valedictory of the Year of Faith celebrations at Calicut organized jointly by the Calicut, Thamarasserry and Batheri dioceses at Calicut; addressing the Graduation Day of the Marian International Institute of Management, Kuttikkanam (Idukki dt.); addressing the Golden Jubilee Seminar of the Mercy College for Women, Palghat, and delivering Prof. M T Tharian Lecture in the St Thomas College, Palai on "Democracy and the Quality of Leadership" etc.

The Hon'ble Member was on a visit to Kerala from Jan. 16<sup>th</sup> to Jan. 25<sup>th</sup>, 2014 addressing a National Seminar on Ecology, Development and Human Rights in the Pope John Paul Memorial College, Kattappana (Idukki dt.); inaugurating the Post Graduate Diploma Course in Human Rights (under Dr B R Ambedkar Chair, Dept. of Law, University of Kerala), Trivandrum; and participating in the R V Thomas Award presentation to the Hon'ble Speaker of the Kerala Legislative Assembly, Shri G Karthikeyan by His Excellency the Governor of Maharashtra, Shri K. Shankaranarayanan at the Municipal Town Hall, Palai and delivering Dr Abraham Marthoma Metropolitan Memorial Lecture at Thiruvalla the next day.

From Feb. 5<sup>th</sup> to 11<sup>th</sup>, 2014, the Hon'ble Member visited Kerala in connection with the Bi-Annual National Conference of the Catholic Bishops Conference of India (CBCI) attended by nearly 230 Bishops from all over India including the Cardinals and the Papal Nuncio. The Hon'ble Member addressed the Public Reception Meeting, inaugurated by the Hon'ble Chief Minister Shri Oommen Chandy which was presided over by the Hon'ble Union Minister, Shri Vayalar Ravi.

On the 10<sup>th</sup> Feb., 2014 the Hon'ble Member delivered the Rev. P C Yohannan Ramban Memorial Lecture at Kottayam on 'Constitution and Minority Rights and the Role of the Minorities in the Development of Education'.

Hon'ble Member was on a visit to UAE from Feb. 13<sup>th</sup> to 18<sup>th</sup>, 2014 and delivered the Annual Convocation Address of the Sharjah Emirates National School, Sharjah, UAE on the Feb. 15<sup>th</sup>, 2014.

Hon'ble Member visited Madhya Pradesh from March 13<sup>th</sup> to 15<sup>th</sup>, 2014 attending the 60<sup>th</sup> year Jubilee Celebrations of the Christukula Mission Higher Secondary School, Satna under the Syrian Marthoma Church of India.

Hon'ble Member Dr. Cyriac Thomas visited West Bengal from 20<sup>th</sup> March to 23<sup>rd</sup> March, 2014 attending a teachers Conference organized by the North Bengal St Xavier's College, Bagdogra, West Bengal. The Hon'ble Member also visited the 100 year old St Xavier's School at Darjeeling, West Bengal.

**Shri Zafar Agha, Hon'ble Member**

<b>S. No.</b>	<b>Dates of Tour</b>	<b>Stations visited</b>
1.	5 <sup>th</sup> to 7 <sup>th</sup> April 2013	Kollam, Trivandrum-Kerala
2.	2 <sup>nd</sup> June 2013	Moradabad, Uttar Pradesh
3.	26 <sup>th</sup> to 30 <sup>th</sup> December 2013	Kaushambi, Allahabad- Uttar Pradesh

On 6<sup>th</sup> April, 2013, Shri Zafar Agha, Hon'ble Member attended a seminar on "Upliftment and Welfare of the minority managed institutions and the Role of NCMEI" at National Public School, Thazhuthala, Kollam, Kerala. The seminar was organised by the National Educational Society, Thazhuthala, Kollam, Kerala.

On 7<sup>th</sup> April, 2013, the Hon'ble Member attended a minority empowerment seminar at Trivandrum Club, Hospitality Centre, Trivandrum, organised by the National Educational Society, Thazhuthala, Kollam, Kerala. Eminent personalities from different parts of Kerala, particularly representatives of minority educational institutions, attended the programme.

The Hon'ble Member also had a meeting with Trivandrum Archbishop.

On 2<sup>nd</sup> June 2013, Shri Zafar Agha, Hon'ble Member attended a seminar on "The Role and Importance of NCMEI " at Muslim Degree College, Moradabad, Uttar Pradesh, on 2<sup>nd</sup> June,2013, which was organised by the Aman Educational Minority Welfare Society, Moradabad, Uttar Pradesh.

The programme was attended by the managers, principals and other representatives of various minority educational institutions of Moradabad.

On 27<sup>th</sup> December, 2013, Shri Zafar Agha, Hon'ble Member attended, as Chief Guest, a seminar on "Status and Need for Education among Indian Minorities" at Kaushambi. It was organised by the Doaba Vikas Evam Utthan Samiti, Karari, Kaushambi, Uttar Pradesh.

On 30<sup>th</sup> Decemeber, 2013, the Hon'ble Member attended a seminar on "Future of Minority Educational Institutions in India" at Allahabad, organised by the A.M. Oxford Public School, Allahabad. The meeting was attended by stakeholders of various educational institutions, academics, social activists and journalists.

Shri Zafar Agha, Hon'ble Member highlighted the following points during the above-mentioned programmes:-

1. Powers and functions of NCMEI.
2. Guidelines formulated by the NCMEI regarding recognition, affiliation and grant of Minority Status Certificate.
3. Importance of Minority Status Certificate.
4. Importance of quality education.
5. Importance of achieving and accomplishing educational schemes of the State and Central Governments.
6. Lack of awareness within the Muslim minority community about Central Government schemes.
7. Importance of modern education for minority communities.
8. Problems faced by Muslim minority educational institutions and minorities.
9. The Hon'ble Member also explained various schemes launched by the Central Government for the development of minority educational institutions and minority community.
10. The rights of minority educational institutions.
11. Provisions of NCMEI act and the functions of NCMEI.

12. Benefits available to minority educational institutions and the various schemes of the central Government for minority educational institutions and the minority communities.
13. The importance and role of National Commission for Minority Educational Institutions in the upliftment and welfare of the minority educational institutions.

## **CHAPTER 7 – PETITIONS AND COMPLAINTS RECEIVED DURING THE YEAR**

Right from its inception the Commission has been registering cases calendar year wise. During the year under report, the Commission registered 2606 petitions and issued 1673 Minority Status Certificate to Minority Educational Institutions.

The Commission registered cases on various issues such as; non-issue of NOC by the State Governments, delay in the issue of NOC, refusal and delay in the issue of minority status, refusal to allow opening of new colleges/schools/ institutions by minorities, refusal to allow additional courses in minority educational institutions, refusal/ delay in the release of grant-in-aid, refusal to give financial assistance, denial of permission to create new posts of teachers in minority educational institutions even though there was increase in number of students, approval of appointment of teachers being denied, 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 on par with government institutions, nonavailability of books in Urdu on all subjects for students of Urdu schools, non-appointment of Urdu knowing teachers, madarsa teachers to be paid at par with minority school teachers, madarsa employees to be paid adequately, non-release of grants to madarsas, non-payment of retirement benefits to teachers and non-teaching staff of minority schools, extension of Sarva Shiksha Abhiyan facilities to minority educational institutions especially in far flung and remote rural areas, etc.

During the year, Commission also received some petitions/applications pertaining to issues and reliefs which were outside the purview of the Commission. They were forwarded to the concerned authorities for appropriate action under due intimation to the concerned petitioners. Some of the cases decided during the year are as follows:

### **Case No. 284 of 2013**

**Petitioner:** Rashida Begum Muslim Mahavidyalaya, Dhanora Road, Amroha, J.P. Nagar, Uttar Pradesh.

**Respondent:** The Regional Director, Northern Regional committee, National Council of Teacher Education, 20/198, Kaveri Path, Near Mansarovar Stadium, Mansarovar, Jaipur.

By this petition, the petitioner college seeks a direction to the respondent to process the petitioner's application for grant of recognition for D.El Ed. Course for the academic year 2013-14. Petitioner college is a minority educational institution covered under Article 30(1) of the Constitution. The petitioner college had applied online for grant of recognition for D.El Ed course. By the order dated 11.5.2012, the said application was rejected by the respondent on the grounds that the petitioner college had not submitted revalidated processing fees of Rs. 40,000; that the petitioner college had not submitted the original FDRs of Rs. 5 lac and Rs. 3 lac from Nationalised Bank and that certified demarcated building plan for different courses showing Kh No., plot No., total land area, built up area, size of multipurpose hall, class rooms, principal room and lab etc. has not been filed. Being grieved by the impugned order dated 11.5.2012, the petitioner college preferred an appeal, which was dismissed vide orders dated 11.12.2012. Hence this petition.

Despite service of notice none entered appearance on behalf of the respondent. Hence the case proceeded ex-parte.

Learned counsel for the petitioner college has strenuously urged that since the petitioner college had rectified all the deficiencies, the respondent may be directed to re-open the petitioner's case and consider its application for the academic year 2013-2014. It is well settled that Article 30(1) of the Constitution confers a fundamental right on the minorities to establish educational institutions of their choice (T.M.A. Pai Foundation vs. State of Karnataka (2002) 8 SCC 481). It is alleged that since the petitioner college has now rectified all the deficiencies pointed out by the respondent,

it is entitled for grant of recognition for D.El.Ed. course. In our considered opinion, the said submission of the learned counsel merits acceptance.

Having regard to the mandate of Article 30(1) of the Constitution, we direct the petitioner college to apply afresh to the respondent under the category of minority educational institution for grant of recognition for D.El.Ed. course for the academic year 2013-14. On receipt of the said application, the respondent shall consider it in accordance with law.

**Case No. 323 of 2013**

- Petitioner:** (i) Turki College of Education, Village Haryana, N.H. 24, Joya, J.P. Nagar (Amroha) Uttar Pradesh , Through Chairman, Mr. Mazahir Hussain.
- (ii) Shama Educational Society, 107, Qazi Zada, Amroha, U.P Through its President, Mr. Mazahir Hussain

**Respondent:** The Regional Director, Northern Regional committee, National Council of Teacher Education, 20/198, Kaveri Path, Near Mansarovar Stadium, Mansarovar, Jaipur.

Challenge in this petition is to the orders dated 11.1.2013 passed by the Northern Regional Committee rejecting the petitioner college's application for grant of recognition for B.Ed. course on the sole ground that it did not have minority status certificate on the date of application. It is alleged that on 8.9.2012, the petitioner college had submitted to the respondent a copy of the minority status certificate dated 9.7.2012 granted by this Commission, which was not taken into consideration for deciding the application for grant of recognition for B.Ed. course and as such the impugned order 11.1.2013 rejecting the said application of the petitioner is invalid and ineffective. Hence this petition.

Despite service of notice none entered appearance on behalf of the respondent as a result whereof the case proceeded ex-parte against the respondent.

The point which arises for consideration is whether the impugned order dated 11.1.2013 is illegal and ineffective. It is alleged that on 29.9.2011, the petitioner college had applied to the respondent for grant of recognition for B.Ed. course. By the order dated 26.3.2012 the petitioner college was directed to rectify the deficiencies mentioned therein, which was rectified by the petitioner college. It appears that the petitioner college had applied for grant of recognition u/s 14 of the NCTE Act as a minority educational institution. By the letter dated 28.8.2011, the respondent directed the petitioner college to explain how it could mention that it was minority institution without having the appropriate certificate in this regard. Thereupon, the petitioner college submitted to the respondent a copy of the minority status certificate dated 9.7.2012 issued by this Commission vide letter dated 8.9.2012. By the impugned order dated 11.1.2013, the petitioner college's application was rejected on the sole ground that since it did not have a minority status certificate on the date of application, it was not eligible to apply for B.Ed. course under the category of minority institution. In our considered opinion, the impugned order dated 11.1.2013 cannot be sustained in law.

The decision rendered by the Supreme Court in N. Ammad vs. Emjay High School (1998) 6 SCC 674 is an authority for the proposition that when the competent authority declares an educational institution as a minority institution, it recognizes a factual position that the institution 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 antecedent to such declaration. Thus, the minority status certificate issued to the petitioner college would relate back to the date

of its establishment. In this view of the matter, we are of the opinion that the petitioner college was eligible to apply for B.Ed. course under the category of minority institution. We are also of the opinion that the impugned order dated 11.1.2013 was passed without taking into consideration the minority status certificate granted to the petitioner college. It is well settled that when an authority passes an order it is bound to take into consideration all the material facts and if it ignores or omits to consider any material fact, the order so passed cannot be sustained in law. (Indian Express Newspapers (Bombay) Pvt. Ltd. And Ors vs. U.O.I AIR 1986 SC 515).

In the instant case, while passing the impugned order, respondent had failed to take into consideration that in view of the law laid down by the Supreme Court in N. Ammad vs. Emjay High School (supra) the minority status certificate granted to the Commission would relate back to the date of establishment of the petitioner college, the impugned orders dated 11.1.2013 suffers from legal infirmity. Consequently, the impugned order cannot be sustained in law.

For the foregoing reasons, we recommend to the respondent to reconsider the petitioner college's application for grant of recognition for B.Ed. course in the light of the observations made above.

**Case No. 801 of 2012**

**Petitioner:** The Makhdam Education Society, Ta. Modasa, Distt. Sabarkantha, Gujarat.

**Respondent:** (i) The Director of Education, Government of Gujarat, Block 9/1, Dr. Jivraj Mehta Bhawan, Gandhinagar, Gujarat.  
(ii) The Joint Director of Education, Special Cell (10+2), Government of Gujarat, Block 9/1, Dr. Jivraj Mehta Bhawan, Gandhinagar, Gujarat.

Challenge in this petition is to the order bearing No. UMB/UMA-3/V.V./2012-2013/8724-26 dated 17.9.2012 and the order bearing No. UMB/UMA-3/Continuous unit/12-13/115948-50 dated 18.9.2012 of the respondent No. 2. The petitioner institution is a minority educational institution within the meaning of 2(g) of the National Commission for Minority Educational Institutions Act (for short the Act). The petitioner institution is situated in Modasa and 50 per cent population of Modasa town is from the Muslim Community. It is the only school, which caters to the local needs of the Muslims in the area. The management of the petitioner institution had applied to the competent authority of the State Government for approval of 3<sup>rd</sup> additional class (general stream) in Gujarati medium for class 11 and 12. The petitioner's proposal for approval for additional 3<sup>rd</sup> class of standard 11 and 12 was rejected on the ground that the area of each classroom was not as per the Government's norms prescribed vide order No. UMB/UMA-3/2012/7651 dated 24.8.2012. On representation, the said order was reviewed and by the order No. UMB/UMA-3/V.V. 2012-2013/8724-26 dated 17.9.2012 3<sup>rd</sup> additional class of standard 11 was approved subject to the conditions enumerated therein. One of the conditions was that the vacancies arising for the additional classes shall be filled up by allotted surplus teachers provided by the Commissioner or District Educational Officer. It is alleged that this condition is violative of the fundamental rights guaranteed under Article 30(1) of the Constitution.

By the order No. UMB/UMA-3/Continuous unit/12-13/115948-50 dated 18.9.2012, the petitioner's proposal for approval of additional 3<sup>rd</sup> class of standard 12 was rejected on the ground that the proposal was not recommended by the District Education Officer and further approval can not be granted as the budget allocation

provided thereof is limited. It is alleged that this order is also hit by Article 30(1) of the Constitution.

Despite service of notices, none entered appearance on behalf of the respondent.

The first question which arises for consideration is : whether the impugned condition attached with the order dated 17.9.2012 is violative of the fundamental rights guaranteed under Article 30(1) of the Constitution. By the impugned order dated 17.9.2012, the petitioner's proposal for sanction of additional 3<sup>rd</sup> class of standard 11 was approved subject to certain conditions enumerated therein and one of the conditions was that the vacancies arising out of said additional class shall be filled up by absorbing surplus teachers to be supplied by the Commissioner or District Education Officer.

This issue has been clinched down by a decision rendered by the Division Bench of the High Court of Gujarat in H.H.H. Charitable Trust vs. State of Gujarat Law Reporter volume 54(2) 546. The High Court has held that the clause 4(g) of the resolution dated 21.5.1994 directing the linguistic and religious institutions to absorb teaching /non teaching staff to be provided by the competent authority of the State Government and clause 64.3 of the grant-in-aid code they do not apply to a minority educational institution. Their Lordships have also held that Section 40 A of the Gujarat Secondary and Higher Secondary Education Act 1972, clause (26) of section 17, sections 34 and 35 and clause (B) and Sub Section (1) and Sub Sections (2) (3) , (4) and (5) of Section (36) can not be applied to a minority educational institution. Relying upon the aforesaid decision of the Gujarat High Court, we find and hold that the impugned condition directing the petitioner institution to fill up vacancies by absorbing

surplus teachers provided by the Commissioner or District Education Officer is violative of Article 30(1) of the Constitution of India.

The petitioner's proposal for grant of additional class for standard 12 in general stream in Gujarati medium was rejected on the ground that the area of these class rooms of the school was not sufficient vide order No. UMB/U.M.3/V.V.11/12/6104-6 dated 30.12.2011. The appeal against the said order was also dismissed by the competent authority of the State Government vide memo No. APL/1611/436/V.V. dated 18.10.2011. The impugned order does not spell out the reason for rejection of the appeal. It cannot be treated as a reasoned order against the order of rejection dated 30.12.2011. Sh. Durani Aftebhusen Babubhai has filed his affidavit stating that the area of each class room of the school is in accordance with the norms prescribed by the Gujarat Secondary Education Regulations 1974. A copy of the affidavit was served on the respondent, but it did not evoke any response. The said point was not considered by the competent authority of the State Government in rejecting the petitioner's proposal in question. The petitioner's proposal for grant of additional class 12 in general stream in Gujarati medium was submitted to the Government to cater to the local needs of the Muslim Community. It is relevant to mention that imparting of education is a State function. The State, however having regard to its financial constraints may not always be in a position to perform its duties. The function of imparting education has been to a large extent taken over by the citizens themselves. The State Government is the custodian of fundamental rights of the citizens. Needless to add here that Article 30(1) of the Constitution confers a fundamental right on minorities to establish educational institutions of their choice. This is a promise of reality not a teasing illusion. Keeping in view of the mandate of Article 30(1) of the Constitution, the State Government is under constitutional obligation to consider the

choice and needs of a minority community for imparting education to its children. The affidavit of Shri Durani Aftab Husain Babubhai clearly proves that the petitioner institution has all the infrastructural and institutional facilities for the proposed additional class 12.

For the foregoing reasons, we recommend to the respondents to reconsider the petitioner's proposal for grant of additional class of standard 12 of the petitioner institution in accordance with the relevant rules.

## **CHAPTER 8: CASES REGARDING DEPRIVATION OF RIGHTS OF MINORITY EDUCATIONAL INSTITUTIONS AND AFFILIATION TO UNIVERSITIES**

It is well settled that under Article 30 (1) of the Constitution, a 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 for maintaining and facilitating the excellence in educational standards. In the 11 Judges Bench decision of the Supreme Court in T.M.A. Pai Foundation vs. State of Karnataka (2002) 8 SCC 481, the Apex Court has explained the right to establish and administer an educational institution. The phrase employed in Article 30 (1) of the Constitution comprises of the following rights:

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

The Commission subscribes to the view that the minority educational institutions should not fall below the standards of excellence expected of educational institutions under the guise of exclusive right of management. Regulatory measures for ensuring educational standards and maintaining excellence thereof are no anathema to the protection conferred by Article 30 (1) of the Constitution. Some of the cases decided during the year are as follows:

### **Case No. 381 of 2013**

**Petitioner:** Bhagwan Mahaveer College of Education, Village Jagdishpur, Near Railway Crossing, Distt. Sonapat, Haryana

**Respondent:** Financial Commissioner & Principal Secretary, Department of Higher Education, Government of Haryana, Civil Secretariat, Haryana.

By this petition, the petitioner college seeks a direction to the respondent for grant of NOC for its affiliation to the Guru Gobind Singh Indraprastha University, Delhi. The petitioner college wants to apply to the said university for grant of affiliation. Statute 24 of the University prescribes conditions for grant of affiliation and one of the

conditions is that the college seeking affiliation must obtain a NOC from the concerned State. The petitioner college, therefore, applied to the competent authority of the State of Haryana for grant of NOC vide application dated 5.11.2012 but it did not evoke any response from the authority concerned. Hence this petition.

The Principal Secretary, Higher Education Department, Government of Haryana has stated in his reply that the State government is not the competent authority to issue NOC to the petitioner college for its affiliation with the University.

The Commission ruled that it is beyond the pale of controversy that the petitioner college is a minority educational institution covered under Article 30(1) of the Constitution and it has a legal right under Section 10-A of the National Commission for Minority Educational Institutions Act to seek affiliation to any University of its choice. The University is an affiliating university. Since the State Government has no power to issue a NOC to the petitioner college for its affiliation to a university, the petitioner college may apply to the university for grant of affiliation enclosing a copy of the reply dated 27.2.2013 received from the Government of Haryana. Ordered accordingly.

**Case No. 545 of 2012**

**Petitioner:** Muslim Education Committee, Miraj Road, Near Zila Parishad Office, Sangli, Maharashtra Through its Hony. Secretary, Mr. Haroon Ishaque Parande

**Respondent:** 1. The Registrar, Shivaji University, Kolhapur, Maharashtra.  
2. Secretary, Higher & Technical Education, Government of Maharashtra, Mantralaya, Mumbai, Maharashtra

By this petition, the petitioner seeks a direction to the respondents to allow presentation of the proposal for establishment of Urdu college at Sangli, Maharashtra. The petitioner Muslim Education Committee is a registered trust constituted by members of the Muslim Community and registered under Bombay Public Trust Act 1950. The said trust has been granted minority status certificate by the Government of Maharashtra vide memo No. Ass/2010/76/(21)P.K. 138/2010/K.5 dated 8.4.2010. Seven educational institutions are being run by the said trust. In 2009, the petitioner approached the respondent No. 1 for establishment of an Urdu college at Sangli. On 26.12.2009, the respondent university recommended to the Secretary, Technical Education, Government of Maharashtra for starting the proposed college in Urdu medium. On 29.10.2010, the petitioner applied to the Vice Chancellor, Shivaji Vidyapeeth for grant of affiliation for commerce and science college. The petitioner deposited the requisite amount also with the said Vidyapeeth. On 22.2.2011, the Director, College and University Development Commission intimated the petitioner that as per recommendations of the Expert Committee appointed by the Vice Chancellor, the said proposal has been found eligible for further approval. It was intimated that the proposal has been kept before the university authorities for consideration and on their recommendations the proposal will be submitted to the Government for approval. On 24.5.2011, the Director, College and University Development Commission intimated the petitioner about the rejection of proposal by the University Officers Commission. The perspective plan of Shivaji University, Kolhapur for 2011 shows that Urdu was not included in the perspective plan. It is, therefore, alleged that direction may be given to the Shivaji University, Kolhapur for inclusion of Urdu subject in its perspective plan. It is also alleged that the impugned action of the respondent No. 1 in not granting affiliation to the petitioner college is

violative of the educational rights of the minorities enshrined in Article 30(1) of the constitution.

The respondent No. 2 did not enter appearance as a result of which the case is proceeded ex-parte.

The respondent No. 2 resisted the petition on the ground that on perusal of the report of the expert committee placed before the university authorities i.e. BCUD and Management Council, did not recommend the proposal due to non-fulfillment of the basic infrastructure mentioned in the Government Resolution.

It is alleged that the impugned action of the State Government in rejecting the petitioner's proposal for establishment of the proposed Urdu college is violative of the educational rights of the minorities enshrined in Article 30(1) of the Constitution.

A stream of Supreme Court rulings commencing with the Kerala Education Bill, 1957 (AIR 1958 SC 959) and climaxed by P. A. Inamdar & Ors. Vs. State of Maharashtra & Ors. (2005) 6SCC 537 (Civil Appeal No.5041 of 2005) decided on 12<sup>th</sup> August 2005 by the 7-Judges Bench of the Supreme Court has settled the law for the present. The whole edifice of case law on Article 30 (1) of the Constitution has been bed rocked in Kerala Education Bill's case (supra). Article 30 (1) of the Constitution gives the minorities a fundamental right to establish and administer educational institutions of their choice. The rationale behind Article 30 (1) 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. They, being part of the fundamental rights, are invested with a sanctity and a status higher than that of the ordinary the law and, consequently, every legal provision or executive action must conform to the mandates implied in them. The

prohibition is contained in Article 13 which bars the State from making any law or rule or legislation abridging or limiting any of these provisions under Chapter III of the Constitution and threatens to veto any law, rule and regulation found inconsistent with. The term "law" includes within its amplitude any ordinance, order, bye-law, rule, regulation, notification, custom or usage having the force of law and the prohibition binds all such instrumentalities within the State as have legal authority to formulate such law. In the case of Ahmedabad St. Xavier College Society Vs. State of Gujarat AIR 1974 SC 1389, their Lordships of the Supreme Court attributed the real reason for Article 30 (1) of the Constitution "to the conscience of the nation that the minorities, religious as well as linguistic, are not prohibited from establishing and administering educational institutions of their choice for the purpose of giving their children the best general education to make them complete men and women of the Country. The minorities are given this protection under Article 30 in order to preserve and strengthen the integrity and unity of the Country. The sphere of general secular education is intended to develop the commonness of boys and girls of our country. This is the true spirit of liberty, equality and fraternity through the medium of education. If religious or linguistic minorities are not given protection under Article 30 to establish and administer educational institution of their choice, they will feel isolated and separate. General secular education will open doors of perception and act as the natural light of mind for our countrymen to live in the whole".

In Re: Kerala Education Bill (supra), S. R. Das, CJ, observed :-

"The key to the understanding of the true meaning and implication of the article under consideration are the words 'of their choice'. It is said that the dominant word is 'choice' and the content of that article is as wide as the choice of the particular minority community may make it."

In the case of P. A. Inamdar & Ors. Vs. State of Maharashtra & Ors. (supra), their Lordships of the Supreme Court observed as under:-

“.....The object underlying article 30 (1) is to see the desire of minorities being fulfilled that their children should be brought up properly and efficiently and acquire eligibility for higher university education and go out in the world fully equipped with such intellectual attainments as will make them fit for entering public services, educational institutions imparting higher instructions including general secular education. Thus, the twin objects sought to be achieved by Article 30 (1) in the interest of minorities are: (i) to enable such minority to conserve its religion and language, and (ii) to give a thorough, good general education to the children belonging to such minority.”

It would be wrong to assume that an unrestricted right as in Article 30 (1) of the Constitution postulates absence of regulations. It has been held in St. Xavier College case (supra) and the case of T.M.A. Pai Foundation Vs. State of Karnataka (2002) 8 SCC 481 that regulations can be prescribed in spirit of the unrestricted nature of the right. Such regulations must satisfy a dual test; the test of reasonableness, and the test that it is regulative of the educational character of the institution. A regulation would be deemed unreasonable only if it was totally destructive of the right of the minority to establish and administer educational institutions. Thus, a benignly regulated liberty which neither abridges nor exaggerates autonomy but promotes better performance is the right construction of the constitutional provisions. Such an approach enables the fundamental right meaningfully to fulfill its trust with the

minorities' destiny in a pluralist polity. That is the authentic voice of our democracy. To regulate, be it noted, is not to restrict but to facilitate effective exercise of the very right. The constitutional estate of the minorities should not be encroached upon, neither allowed to be neglected nor mal-administered.

At this juncture, we may also usefully excerpt the following observations of their lordships in the case of P. A. Inamdar & Ors. (supra) :-

“.....Therefore, the State may prescribe reasonable regulations to ensure the excellence of the educational institutions to be granted aid or to be recognized. To wit, it is open to the State to lay down conditions for recognition such as, an institution must have a particular amount of funds or properties or number of students or standard of education and so on. The dividing line is that in the name of laying down conditions for aid or recognition the State cannot directly or indirectly defeat the very protection conferred by Article 30 (1) on the minority to establish and administer educational institutions..... The dividing line between how far the regulation would remain within the constitutional limits and when the regulations would cross the limits and be vulnerable is fine yet perceptible and has been demonstrated in several judicial pronouncements which can be cited as illustrations. They have been dealt with meticulous precision coupled with brevity by S. B. Sinha, J. in his opinion in Islamic Academy.”

In Ahmedabad St. Xavier College case (supra), it was observed that :-

“The right under Article 30 cannot be exercised in vacuo. Nor would it be a right to refer to affiliation or recognition as privileges granted by the State. In a democratic system of Government with emphasis on education and enrichment of its citizens, there must be elements which give protection to them. The meaningful exercise of the right under Article 30 (1) would and must necessarily involve recognition of the secular education imparted by the minority institutions without which a right will be a mere husk.”

The Supreme Court has clearly recognized that running a minority educational institution is also as fundamental and important as other rights conferred on the citizens of the country [Managing Board of Delhi, Bihar, Ranchi & Ors. Vs. State of Bihar & Ors. (1984) 4 SCC 500]. Any state action which anyway destroys, curbs or interferes with such right would be violative of Article 30.”

It is also relevant to mention that imparting education is a state function. The state, however, having regard to its financial constraints is not always in a position to perform its duties. The function of imparting education has been to a large extent taken over by the citizens themselves. The State Government is the custodian of fundamental rights of the citizens. Keeping in view the mandate of Article 30 (1) of the Constitution, the State Government is under clear constitutional obligation to consider the choice and needs of a minority community for imparting higher/professional education to its children.

Learned counsel for the petitioner has strenuously urged that a direction may be issued to the respondent university for inclusion of colleges and institutions of higher learning in Urdu language in the perspective plan of the university under Section 82 of Maharashtra Universities Act 1994.

It needs to be highlighted that Urdu language has a primary importance for the integration of the largest Indian minority, the Muslims, into the natural mainstream. It has to be borne in mind that a language must never be confused with a religion. According to Dr. Samuel Johnson, languages are the pedigree of a nation. The languages including Urdu in the Eighth Schedule of the Constitution are the pedigree of the people of India. Unfortunately, after partition, Urdu language has been identified with Islam. Today, 99% of those who declare Urdu as their mother tongue are Muslims and thus Urdu has now become the language only of the Muslims. In fact, some of the State Governments are responsible for making Urdu as the language of Muslims. It is relevant to mention that despite all Constitutional guarantees against discrimination, Urdu has been systematically eliminated from the curriculum of minority educational institutions. The Constitution defines India as a secular State, but at times some of the decisions taken by the decision making people completely betray the very concept of

secularism. We feel that the survival of Urdu is a vital question which demands political will and strategy to address. Needless to add here that Urdu is a flower of national and international value and it should not be an “endangered species”. In this context, we may usefully excerpt the following observations of Dr. Zakir Husain’s stand on Urdu while speaking at the Urdu Research Institute on 27.11.1959. He said :-

“I feel that this language is prophetic of the blossoming of the new life which we Indians desire for our country in the era of its freedom...the longing to build out of distinctive and diverse elements a common culture, as the Ganges and the Jamuna together make one mighty stream... Urdu is not the language of the community or a religion, it was not imposed by any government, or created artificially with a particular motive. It is the language of the people, of the common people... It is the language of the *faqirs* and saints, who were desperately anxious to communicate the love which overflowed their hearts to the common people... Urdu is, therefore, the language of affection and love, the language of tolerance, of an intercourse animated with goodwill... As Urdu is not a language confined to a particular religion and those who speak and understand it are found all over the country, it should be foremost amongst the means of forging national unity... To regard a language in which we find the whole literature of the Arya Samaj, a language which the Christians have utilized to the full for their religious purposes as a Muslim language and thereby cultivate narrow mindedness is neither honest nor wise...”

It is the Constitutional obligation of the State to provide every facility to Muslims who want to conserve their language, script and culture. Consequently, Urdu language has to be saved from extinction through teaching in different schools, colleges and universities. Needless to add here that the Urdu is also a victim of political geography. Although it is the largest minority language, it received the least support from the State and the present case is a classic example of the State's indifference towards conservation of this beautiful language. The State Government and the respondent university should have been responsive to the demand for facilities needed to teach Urdu at the Post Graduate level. It is the responsibility of the State and its instrumentalities to ensure that students from minority communities do not suffer any disadvantage due to non-availability of schools and colleges in their primary language. We are constrained to observe that the impugned action of the respondent university in rejecting the petitioner's proposal for location of an Urdu College is violative of the educational rights of the minorities enshrined in Article 30(1) of the Constitution.

For the foregoing reasons, we recommend to the respondent university to include in its perspective plan for educational development and for the location of colleges and institutions of higher learning in Urdu language.

**Case No. 698 of 2013**

**Petitioner:** Kurwai Education society, C/o All Saints' School, Idgah Hills Road, Bhopal, Madhya Pradesh Through its Secretary Mr. Saeed Ali Khan.

**Respondent:** The Secretary, School Education, Government of M.P., Bhopal, Madhya Pradesh.

Being aggrieved by the memo No. F.44-21-2011-20-2 dated 18.3.2013, the Kurwai Education Society has filed the present petition seeking a declaration that the educational institutions established by it and declared as minority educational

institutions by this Commission are outside the purview of the Right of Children to Free and Compulsory Education Act (2009) (for short the Act).

Despite service of notice, none entered appearance on behalf of the respondent as a result whereof the case proceeded ex-parte against it.

The educational institutions established by the Kurwai Education Society have been declared as minority educational institutions by this Commission vide orders dated 31.1.2012 in cases bearing Nos. 1658, 1659 and 1663 to 1667/2011. In our opinion the issue raised herein stands resolved by a decision rendered by the Supreme Court in Society for Unaided P. School of Rajasthan vs. Union of India 2012 AIR SCW 3400. It has been held by the Supreme Court that Article 21A of the Constitution casts an obligation on the State to provide free and compulsory education to Children of age of 6 to 14 and not on unaided non-minority and minority educational institutions. The Supreme Court has further held that Rights of Children to Free and Compulsory Education guaranteed under Article 21-A and RTE Act can be enforced against the schools defined under Section 2(n) of the Act except unaided minority and non minority schools not receiving any kind of aid or grants to meet their expenses from the appropriate Governments. If the minority educational institutions established by the Kurwai Education Society are not receiving any aid from the State Government or the local authority, they are exempted from operation of the Act.

**Case No. 1771 of 2012**

**Petitioner:** Regency Teachers Training College, Regency Enclave, Raseora, Sitapur, Uttar Pradesh (through its President Sh. A.R. Zaidi).

**Respondent:**

1. District Inspector of School, Sitapur, Uttar Pradesh.
2. Secretary Higher Education, Government of Uttar Pradesh, Sachivalaya, Lucknow, Uttar Pradesh.
3. Vice Chancellor, Chhatrapati Shahu Ji Maharaj University, Kanpur

The petitioner college is a minority educational institution covered under Article 30(1) of the Constitution and is affiliated to the Chhatrapati Shahu Ji Maharaj University (for short the respondent University). On 16.12.2008, the petitioner college applied to the respondent university for grant of affiliation for conducting B.A and B.Lib course. Thereupon, the university sought permission of the State Government for granting affiliation of the said course vide letter dated 9.3.2009 addressed to the Secretary Higher Education, Government of Uttar Pradesh. By the letter dated 12.5.2009, Special Secretary, Government of U.P. intimated the respondent university that NOC can't be issued until the deficiency mentioned therein are rectified by the institution concerned. Name of the institution finds mention in the said list. By the letter dated 23.7.2009, the District Inspector Schools, Sitapur directed the petitioner college to rectify the deficiencies mentioned therein for issuing the NOC for grant of affiliation as sought by it. The said letter was responded by the petitioner college vide letter dated 2.6.2012. Thereafter, the respondent maintained a sphinx silence on the application of the petitioner college for grant of affiliation for B.A. and B.Lib courses. It is alleged that the sphinx silence maintained by the respondents is violative of the educational rights of the minorities enshrined in Article 30(1) of the constitution. Hence this petition.

Despite service of notices, none entered appearance on behalf of the respondents a result whereof the case proceeded ex-parte against them.

The petitioner college is a minority institution covered under Article 30(1) of the Constitution. A minority community has a fundamental right to establish an educational institution of its choice. (T.M.A. Pai Foundation vs. State of Karnataka (2002) 8 SCC 481) The petitioner college is already affiliated to the respondent university. On 16.12.2006, the petitioner college applied to the respondent university for starting new

subjects, namely B.A and B.Lib. vide letter dated 9.3.2009. The respondent university forwarded the said proposal to the Secretary, Higher Education, Government of U.P. for granting NOC. By the letter dated 12.5.2009, the Special Secretary, Government of U.P. sent a list of colleges to the respondent university intimating inability to issue NOC until the deficiencies catalogued therein are rectified by the institution concerned. Thereafter, the District Inspector of Schools, Sitapur also directed to the petitioner college to rectify the deficiencies mentioned in the memo dated 23.7.2009. These deficiencies are in addition to those mentioned in the letter dated 12.5.2009 of the Special Secretary, Government of U.P.

It is relevant to mention that the Statutes No. 13.04 to 13.27 prescribe procedure for grant of affiliation for starting new degree college or for starting courses in new subjects. Reference may, in this connection be made to the following statutes, which are relevant for our consideration:

“13.11 Every application from an affiliated college for starting courses of instructions for a new degree or in new subjects shall be made so as to reach the Registrar before the 15<sup>th</sup> August of the year preceding the one in which it is proposed to start such courses. [(Sections 37 and 49(m)).

13.12. Each college applying for affiliation for a new degree or for a new subject shall remit with its application a sum of Rs. 200 for each subject and with a minimum of Rs. 400 and a maximum of Rs. 1000 which will be non-refundable. [Sections 37 and 49(m)].

13.13. No application for affiliation in a new subject shall be considered unless the Registrar gives a certificate in writing that the conditions of affiliation and of previous affiliation have been fulfilled in total. [Sections 37 and 49(m)]

13.14. If the Vice-Chancellor is satisfied in regard to the need for such affiliation and if the college has fulfilled and continues to fulfill all conditions of previous affiliation the application shall be placed before the Executive Council which shall appoint a Panel of Inspectors and the provisions of Statute 13.08 shall apply. [Sections 37 and 49(m)]”

As stated above, the petitioner college is an affiliated college and it had sought affiliation for starting courses of instructions in new subjects, namely B.A and B Lib. The petitioner’s application is to be processed in accordance with the Statutes mentioned above. Statute 13.13 provides that no application for affiliation in a new subject shall be considered unless the Registrar gives a certificate in writing that the conditions of affiliation and of previous affiliation have been fulfilled in total. Statute 13.14 lays down that if the Vice Chancellor is satisfied in regard to the need for such affiliation and if the college has fulfilled and continues to fulfill all conditions of previous affiliation the application shall be placed before the Executive Council which shall appoint a panel of inspectors to inspect the college and make a detailed report on all relevant matters in accordance with Statute 13.08. In the instant case, the respondent university had recommended to the State Government for issue of NOC for granting affiliation to the petitioner college for starting courses of instruction in new subjects namely B.A. and B.Lib. For this matter, it may be presumed that the requirements mentioned in Statutes 13.12, 13.13, 13.14 and 13.15 read with the Statute 13.08 have

fulfilled otherwise the respondent university would not have recommended to the State Government for grant of NOC.

It also needs to be highlighted that none of the Statutes of the respondent university prescribes a NOC from the State Government as a condition of eligibility for granting affiliation to an affiliated college for starting new subjects. However, it is presumed that the State Government must have issued NOC to the petitioner for granting affiliation by the respondent university. According to the Statutes 13.14 and 13.15, if the Vice Chancellor is satisfied in regard to the need for such affiliation and if the college has fulfilled and continues to fulfill all conditions of previous affiliation, the application shall be placed before the Executive Council, which shall appoint a panel of Inspectors to inspect the college and submit a detailed report on all relevant matters. Since the petitioner college is already affiliated to the respondent university, the deficiencies pointed out by the Special Secretary, Higher Education, Government of U.P. as well as by the District Inspector of Schools, Sitapur are wholly irrelevant for issuing NOC for grant of affiliation for starting new courses, namely B.A. and B.Lib. However, pursuant to the letter dated 23.7.2009 of the District Inspector Schools, Sitapur, the petitioner college submitted all the relevant documents vide letter dated 25.7.2009. Even after submission for the said documents, the State Government did not take any action for issuing NOC for starting new subjects in the petitioner college. In other words, the petitioner's letter dated 25.7.2009 did not evoke any response from the State Government. The sphinx silence of the state Government on the request of the petitioner college is virtual negation of the constitutional protection enshrined in Article 30(1) of the Constitution. The decision of the Supreme Court in T.M.A. Pai Foundation (supra) is an authority for the proposition of law that where an educational institution seeks affiliation, the university concerned or any other or any other statutory

authority cannot refuse the same without sufficient reasons. Statute 13.14 envisages that if the Vice Chancellor is satisfied in regard to the need for starting new subjects in an affiliated college, he shall place the application for affiliation before the Executive Council. Thus it is the subjective satisfaction of the Vice Chancellor in regard to the need for starting new subjects in an affiliated college. In this view of the matter, the Government should not have refused to issue NOC for granting permission to the petitioner college for starting new subjects. That being so, we find and hold that the impugned action of the State Government in refusing to issue of NOC in question, is violative of the educational rights of the minorities enshrined in Article 30(1) of the Constitution.

For the foregoing reasons, we recommend to the Government of U.P. in Higher Education Department to reconsider the proposal of the respondent university submitted to the Government vide letter dated 9.3.2009 for issue of NOC for granting affiliation to the petitioner college for starting new subjects in B.A. and B.Lib in the light of the letter dated 25.7.2009 sent by the petitioner college to the District Inspector of School, Sitapur.

**Case No. 2704 of 2012**

**Petitioner:** PVS H & H Thangal Memorial Public School, Kavilummaram P.O., Kizhakkoth, Koduvally, Kozhikode, Kerala.

**Respondent:** The Director of Public Instruction, Government of Kerala, Trivandrum, Kerala.

By this petition, the petitioner seeks a declaration under Sub Section (3) of Section 10 of the National Commission for Minority Educational Institutions Act (for short the Act) that No Objection Certificate for affiliation of the petitioner school to the CBSE has deemed to have been granted by the competent authority of the State

Government. The petitioner school is a minority educational institution covered under Article 30(1) of the Constitution vide certificate dated 5.7.2011 issued by this Commission. On 12.7.2012, the petitioner institution applied to the competent authority of the State Government for grant of NOC for CBSE affiliation. The competent authority did not pass any order on the said application within the statutory period of 90 days which expired on 11.10.2012. It is alleged that the petitioner is entitled to a declaration under Sub Section (3) of Section 10 of the Act that the NOC has deemed to have been granted by the competent authority for the petitioner school's affiliation with the CBSE.

The respondent, though represented by the Standing Counsel did not contest the proceedings. The point which arises for consideration is as to whether the petitioner school is entitled for a declaration under Sub Section (3) of Section 10 of the Act.

Learned counsel for the petitioner has invited our attention to the provisions of Section 10 of the Act which reads as under:-

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 he grant of No Objection Certificate for the said purpose” .

(1) 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.

It is alleged that on 12.7.2012, the petitioner school had applied to the competent authority of the State Government for grant of NOC for its CBSE affiliation and the competent authority did not pass any order within the statutory period of 90 days which expired on 11.10.2012. Mr. Anwar Sadath K.P. had filed his affidavit in support of the averments made in the petition. The respondent has not controverted the aforesaid facts. Thus it is obvious that the competent authority of the State Government did not pass any order on the petitioner's application dated 12.7.2012 for grant of No Objection Certificate for its affiliation with the CBSE within 90 days from the date of its representation which expired on 11.10.2012. Consequently, we hold that the petitioner school being a minority educational institution covered under Article 30(1) of the Constitution is entitled for a declaration under Sub Section (3) of Section 10 of the Act to the effect that the competent authority has deemed to have granted a No Objection Certificate of its affiliation with the CBSE.

For the foregoing reasons, the petition is allowed and it is hereby declared under Sub Section (3) of Section 10 of the Act that the competent authority has deemed to have granted to the petitioner school No Objection Certificate for its affiliation with the CBSE. A certificate be issued accordingly.

**Execution Case No. 08 of 2012**

**Petitioner:** Islamic Educational Development Organization, Sangaiyumpham, P.O. Wangjing, Manipur Through its Secretary Md. Siraj Ahamed.

**Respondent:** The Principal Secretary, Education (S) Department, Government of Manipur, Room No. 200, Manipur Secretariat (South Block), Imphal, Manipur.

By the order dated 13.6.2012 passed in Case No. 1903/2011, the Commission had recommended to the State Government to grant NOC to the Taj Standard School, Sangaiyumpham, Manipur for its affiliation by the CBSE. By the letter No. 12/1/2003-SE/S) Pt III dated 11.12.2012, Principal Secretary (Education- S) Government of Manipur intimated the Commission that the matter had been placed before the Cabinet for decision for consideration. After awaiting for decision of the Government, the Chairman wrote a letter to Hon'ble the Chief Minister, Manipur requesting him to expedite the decision on the said recommendation of the Commission vide letter dated 21.12.2012. Surprisingly, the said letter of request did not evoke any response from the Chief Minister.

Having regards to the facts and circumstances of the case it would be appropriate to request the H.E. Governor of Manipur to intervene in the matter and direct the State Government to issue NOC in terms of the orders dated 13.6.2012 passed by this Commission.

## **CHAPTER 9 – RECOMMENDATIONS FOR THE INTEGRATED DEVELOPMENT OF EDUCATION OF THE MINORITIES**

As per Section 11 of NCMEI Act, the Commission amongst other functions shall:

- (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 Minority Educational Institution and declare its status as such;
- (g) make recommendations to the appropriate Government for the effective, implementation of programmes and schemes relating to the Minority Educational Institutions; 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.

One order passed by the Commission is as below: -

### **Case No. 1696 of 2012**

**Petitioner:** Mohammad Ali Jauhar University, Jauhar Nagar, Post Singham Khera, Tehsil Tanda, Distt. Rampur, Uttar Pradesh, Through Dr. Tazeen Fatima, Secretary, Maulana Mohammad Ali Jauhar Trust, Rampur.

**Respondent:** (i) The Chief Secretary, Government of Uttar Pradesh, Lucknow, Uttar Pradesh.  
(ii) The Secretary, Minorities Welfare Department, Government of Uttar Pradesh, 6<sup>th</sup> Floor, Indira Bhawan, Lucknow, Uttar Pradesh.  
(iii) Deputy Director, Minorities Welfare Department, Government of Uttar Pradesh, 6<sup>th</sup> Floor, Indira Bhawan, Lucknow, Uttar Pradesh.

The Mohammad Ali Jauhar University, Rampur (hereinafter referred to as the University) has applied for grant of minority status certificate on the ground that the

same has been founded by Maulana Mohammad Ali Jauhar Trust constituted by members of the Muslim community and incorporated under the Mohammad Ali Jauhar University Act, 2005 (UP Act No. 19 of 2006). It is also alleged that the University is being administered by the members of the Muslim Community and as such it is entitled to be declared as a minority educational institution within the meaning of Section 2(g) of the National Commission for Minority Educational Institutions Act (for short the Act). Hence this petition.

In its reply dated 3.4.2013, the State Government has supported the petitioner's claim about its minority status. It is also mentioned in the reply that the beneficiaries of the University are also members of the Muslim Community.

In its reply dated 5.3.2013, the Governor's Secretariat, Uttar Pradesh has intimated to the Commission its No Objection for the grant of minority status certificate to the said University.

Although Section 58 of the Evidence Act declares that admitted facts need not to be proved, yet having regard to the facts and circumstances of the case, we would like to evaluate the evidence produced by the petitioner institution in support of its claim of minority status.

Following facts are required to be proved for grant of minority status to an educational institution on religious basis:-

- (i) that the educational institution was established by a member/ members of the religious minority community;

- (ii) that the educational institution was established for the benefit of the minority community; and
- (iii) that the educational institution is being administered by the minority community.

Issue No. (i) & (ii)

The first question which arises for consideration is : who has founded the University. The answer to this question lies in the provisions of the Mohammad Ali Jauhar University Act (for short the University Act).

A bare reading of various provisions of the University Act makes it clear and beyond any doubt that the University was founded by Maulana Mohammad Ali Jauhar Trust with an avowed object for empowering the Muslims through education. Section 3 (1) of the University Act lays down that “There shall be established at Rampur in Uttar Pradesh a University by the Trust in the name of the Mohammad Ali Jauhar University”. Clause (r) of Section 2 of the University Act defines trust as under :-

“Trust” means Maulana Mohammad Ali Jauhar Trust, Lucknow, Uttar Pradesh registered under the Societies Registration Act, 1860”.

The petitioner has produced certified copies of the Trust which has been registered as a society under the Societies Registration Act, 1860. The Memorandum of Association of the Trust clearly shows that all the trustees of the trust are from the Muslim Community. The Preamble of the University Act clearly declares that the University was sponsored by Maulana Mohammad Ali Jauhar Trust at Rampur for its incorporation under an Act of the Legislature.

It is well settled that Preamble of a Statute is an admissible aid to construction. The Preamble of an Act is expected to express the scope, objects and purpose of the Act more comprehensively than the long title. It is the key to open the minds of the makers of the Act. It is well settled that the Preamble being part of the Statute can be read with other provisions of the Act to find out the meaning of words in the enacting provisions and the scope, object and purpose of the Act. In the instant case, the preamble of the University Act clearly declares that the University was sponsored by Maulana Mohammad Ali Jauhar Trust at Rampur.

In addition, reference may also be made to the Statement of objects and reasons of the University Act which are as under:-

“Urdu language is spoken as mother tongue by a particular section of the society of Uttar Pradesh. The Urdu language is required to be developed in such a way that any person of the society may continue their study to the higher stage of learning in Urdu literature including Arabi and Farasi languages. There is no university under the control of State wherein higher study of Urdu, Arabi and Farasi language and research therein could be facilitated to the persons who are interested in Urdu, Arabi or Farasi languages. The Maulana Mohammad Ali Jauhar Trust, Lucknow has sponsored for the establishment of such University. It has, therefore, been decided to establish a University sponsored by the said Trust to be known as Mohammad Ali Jauhar University at Rampur in the State of Uttar Pradesh to provide advance knowledge and

wisdom and understanding by teaching and research in Urdu, Arabi and Farasi language to the scholar.

The Mohd. Ali Jauhar University Bill, 2005 is introduced accordingly.”

The weight of judicial authority leans in favour of the view that the Statement of Objects and Reasons accompanying a bill, when introduced in Legislature cannot be used to determine the true meaning and effect of the substantive provisions of the Statute. They cannot be used except for the limited purpose of understanding the background and the antecedent state of affairs leading upto the legislation and the evil which the statute was sought to remedy. However, judicial notice can be taken of the factors mentioned in the Statement of Objects and Reasons and of such other factors as must be assumed to have been within the contemplation of the Legislature when the Act was passed. If the provisions of the University Act are interpreted, keeping in view the background and context in which the Act was enacted and the purpose sought to be achieved by this enactment, it becomes clear that the University was founded by Maulana Mohammad Ali Jauhar Trust and incorporated under the U.P. Act No. 19 of 2006. According to the Halsbury’s law “the essential feature of a University seems to be that it was incorporated as such by the sovereign power”. (Volume 13, 3<sup>rd</sup> Edition at page 707). At this juncture, a reference to clause (s) of Section 2 of the University Act has become inevitable which defines the university as under:-

(s) “University” means the Mohammad Ali Jauhar University established under this Act by the Trust.”

(emphasis supplied)

Clause (r) of Section 2 of the University Act defines the trust as under:-

“Trust” means Maulana Mohammad Ali Jauhar Trust, Lucknow, Uttar Pradesh registered under the Societies Registration Act, 1860”.

It cannot be disputed that “to found” is one of the meanings of the verb “to establish”. “To bring into existence” is another meaning of the verb “to establish”. In the present context, we are of the opinion that “to found” is a correct meaning as it is clear from the definition of the verb “to establish”. In this connection, we may excerpt the following observations of their Lordships of the Supreme Court in P.U. Indiresan vs. Union of India 2011 AIR SCW 4855:-

“In English language, many words have different meanings and a word can be used in more than one sense. Every dictionary gives several meanings for each word. The proper use of a dictionary lies in choosing the appropriate meaning to the word, with reference to the context in which the word is used. We cannot mechanically apply all and every meanings given in the dictionary. Nor can we choose an inappropriate meaning that the word carry and then try to change the context in which it is used. The context in which the word is used determines the meaning of the word. A randomly chosen meaning for the word should not change the context in which the word is used. This is the fundamental principle relating to

use of words to convey thought or explain a position or describe an event”.

It is also relevant to mention that Section 4 of the University Act clearly spells out that the sponsoring body of the University was Maulana Mohammad Ali Jauhar Trust as defined in Clause ( r ) of Section 2”. It needs to be highlighted that the only manner in which the Muslim Community can establish a University was by invoking exercise of the sovereign power of the State which took the form of an Act of the Legislature and this the Muslim Community did. In other words, the members of the Muslim Community (Maulana Mohammad Ali Jauhar Trust, which was constituted by members of the Muslim Community and registered as a society under the Societies Registration Act, 1860) founded the University in the only manner in which the university could be brought into being, namely by invoking exercise of the sovereign authority of its legislative power. The Muslim Community provided lands, buildings, colleges and endowments for the University and without these, the University as a body incorporate would be an unreal abstraction.

The University Act clearly shows that the university is also being administered by members of the Muslim Community. Section 5 of the University Act provides that the University shall start operation only after the State Government issues to the trust a letter of authorization for the commencement of the functions of the University. Sub Section (2) of Section 5 of the University Act also provides that the State Government shall issue the letter of authorization on receipt of an unambiguous affidavit alongwith documents by the Trust to the effect that all conditions referred to in Section 4 have been fulfilled. At this juncture, it would be appropriate to refer to the reply of the Secretary, Government of Uttar Pradesh which is as under:-

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Thus the State Government has unequivocally admitted that the University has been established and is being administered by the Muslim Community. Even the Governor’s Secretariat, Uttar Pradesh has intimated to the Commission about its no objection against grant of minority status to the University vide letter No. G-862/G.3 dated 5.3.2013. It is relevant to mention that from the very language of Article 30(1) of the Constitution, it is clear that it enshrines a fundamental right of the minority educational institutions to manage and administer their institutions which is completely in consonance with the secular nature of our Constitution itself. Consequently, we find and hold that the University has been established and is being administered by the Muslim Community.

Next issue which arises for consideration is: whether the beneficiaries of the petitioner institution are members of the Muslim Community?

Needless to add here that an educational institution is established to subserve or advance the purpose for its establishment. Whereas the minorities have the right to establish and administer educational institutions of their choice with the desire that their children should be brought up properly and be eligible for higher education and go all over the world fully equipped with such intellectual attainments as it will make them fit for entering the public service, surely then there must be an implicit in such a fundamental right the corresponding duty to cater to the needs of the children of their own community. The beneficiary of such a fundamental right should be allowed to enjoy it in the fullest measure. Therefore, the educational institutions of their choice will necessarily cater to the needs of the minority community which had established the institution.

The Memorandum of Association of Maulana Mohammad Ali Jauhar Trust clearly reflects that the beneficiaries of the Trust are members of the Muslim Community. Section 6(1) (i) (ii) of the University Act clearly spells out that beneficiaries of the University are also members of the Muslim Community. Proviso to Section 8 of the University Act also support the said fact as it empowers the University for making appropriate provisions for reservation of persons belonging to the Muslim Community with a rider that such reservation cannot exceed more than 50%. It is relevant to mention that the power to manage a University involves the power to admit students to it. The power to admit students is one of the important facets of the right to administer an educational institution. (T.M.A. Pai Foundation vs. State of Karnataka (2002) 8 SCC 481). Proviso to Section 8 of the University Act embodies a guarantee for

reservation of Muslims. The main purpose of the reservation is to raise the standard of education of Muslims. In addition, the Secretary, Government of Uttar Pradesh in his letter dated 3.4.2013 has unequivocally admitted that the beneficiaries of the University are members of the Muslim 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 Vs. 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 minorities do not have such constitutional protection, they will be 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. According to Sachar Committee's report, Muslims are scratching bottom of the educational barrel of the Country. It is, therefore, necessary to advance, to foster and promote the education of the Muslims at a quicker pace. It appears that the University has provided reservation for the Muslim community in order to achieve the said object. Needless to add here that the sphere of general and secular education is intended to develop the commonness of boys and girls of our country. This is the true spirit of liberty, equality and fraternity through the medium of education.

Thus the conspectus of the provisions of the Act clearly indicates that the University is a minority educational institution within the meaning of Article 30(1) of the Constitution. As demonstrated earlier, the Muslim Community had striven for, and obtained, the establishment of the University for the benefit of its community and endowed it with considerable property and money. Consequently, we find and hold that the main beneficiaries of the University are members of the Muslim community.

It is also relevant to mention that the State Legislature has again reiterated its intention to treat/declare the University as a minority educational institution by passing the Mohammad Ali Jauhar University (Amendment) Act, 2007. By the amendment, Clause ( s) of Section 2 of the University Act is to be substituted by the new definition of the “University” which is as under :-

“University” means the Mohammad Ali Jauhar University established under this Act by the Trust as a minority educational institution.”

(emphasis supplied)

In our opinion there is no inconsistency between the definition of ‘University’ as defined in the Integral University Act, The Teerthanker Mahavir University Act and the Mohammad Ali Jauhar University (Amendment) Bill, 2007. Thus, the definition of the word ‘University’ as defined under clause (s) of the Mohammad Ali Jauhar University (Amendment), Bill, 2007 can not be faulted on any valid ground. The Mohammad Ali Jauhar University (Amendment) Bill, 2007 is still awaiting for assent of the Governor of U.P.

For the foregoing reasons, we find and hold that the Mohammad Ali Jauhar University, Rampur is a minority educational Institution within the meaning of Section 2(g) of the National Commission for Minority Educational Institutions Act. A certificate be issued accordingly.

## **CHAPTER 10- INSTANCES OF VIOLATION OR DEPRIVATION OF EDUCATIONAL RIGHTS OF THE MINORITIES**

Article 30 (1) of the Constitution gives the right to minorities based on religion or language to establish and administer educational institutions of their choice. This Right under Article 30(1) is available to linguistic minorities irrespective of their religion. It is, therefore, not possible to exclude secular education from Article 30.

A stream of Supreme Court rulings commencing with the Kerala Education Bill, 1957 (AIR 1958 SC 959) and climaxed by P.A. Inamdar & Ors Vs. State of Maharashtra & Ors (2005) 6 SCC 537 has settled the law for the present. The whole edifice of case law on Article 30(1) of the Constitution has been bedrocked in Kerala Educational Bill's case (supra). Article 30(1) of the Constitution gives the minorities a fundamental right to establish and administer educational institutions of "their choice". The rationale behind Article 30(1) 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 prohibition is contained in Article 13 which bars the State from making any law or rule or regulation abridging or limiting any of these provisions under Chapter III of the Constitution and threatens to veto any law, rule or regulation found inconsistent with.

In the case of Ahmedabad St. Xavier College Society Vs. State of Gujarat AIR 1974 SC 1389, their lordships of the Supreme Court attributed the real reason for Article 30(1) of the Constitution "to the conscience of the nation that the minorities, religious as well as linguistic, are not prohibited from establishing and administering educational institutions of their choice for the purpose of giving their children the best general education to make them complete men and women of the country. The

minorities are given this protection under Article 30 in order to preserve and strengthen the integrity and unity of the country.

The sphere of general secular education is intended to develop the commonness of boys and girls of our country. This is the true spirit of liberty, equality and fraternity through the medium of education. If religious or linguistic minorities are not given protection under Article 30 to establish and administer educational institutions of their choice, they will feel isolated and separated. General secular education will open doors of perception and act as the natural light of mind for our countrymen to live in the whole.”

A meaningful exercise of the rights guaranteed under Article 30(1) of the Constitution must, therefore, mean the right to establish effective educational institutions which may subserve the real needs of the minorities and the scholars who resort to them. It is permissible for the State or the regulatory authority to prescribe regulations, which must be complied with, before any minority institution could seek or retain affiliation and recognition but such regulations should not impinge upon the minority character of the institution. Therefore, a balance has to be kept between the two objectives – that of ensuring the standard of excellence of the institution, and that of preserving the right of the minorities to establish and administer their educational institutions. Regulations that embraced and reconciled the two objectives could be considered to be reasonable. (See *T.M.A. Pai Foundation Vs. State of Karnataka*) 2002 (8) SCC 481). In *T.M.A. Pai Foundation's* case, it has been held by the Supreme Court that affiliation and recognition has to be available to every institution that fulfills the conditions for grant of such affiliation and recognition. Moreover, the right conferred by Art. 30 on minorities imposes a duty on the legislature and the executive

to abstain from making any law or taking any executive action which would take away or abridge that right.

Some of the cases decided during the year are as follows:-

**Case No. 974 of 2012**

- Petitioner:**
1. Al - Falah School of Education & Training, Village Dhauj Faridabad, Haryana.
  2. Al – Falah Charitable Trust, 274-A, Al-Falah House, Jamia Nagar, Okhla, New Delhi.

**Respondent:** The Regional Director, Northern Regional Committee, National Council for Teachers Education, 20/198, Kaveri Path, Near Mansarovar Stadium, Mansarovar, Jaipur.

Challenge in this petition is to the Show Cause notice dated 14.5.2012 issued by the respondent u/s 17 of the National Council for Teacher Education Act 1993 (for short the Act) to the petitioner college. The petitioner college is an unaided minority educational institution covered under Article 30(1) of the Constitution. The petitioner college had been established in 2006 and received recognition from the respondent for conducting B.Ed. course with an annual intake of 100 seats for the academic session 2006-2007. The annual intake of seats for the B.Ed. course was raised from 100 to 200 and 50 seats in D.Ed. course for the academic year 2007-08. Thereafter, the said annual intake was further raised to 300 seats in B.Ed. course, 100 seats in D.Ed. course and 25 seats in M.Ed. course for the academic year 2008-09. As per policy decision, annual intake of 25 seats in M.Ed. course was further raised to 35. On 23.2.2012, an Inspection Committee constituted by the respondent conducted surprise inspection of the petitioner college. The Inspection committee was satisfied with the availability of the infrastructural and instructional facilities in the petitioner college. Surprisingly, the respondent issued the impugned show cause notice dated 14.5.2012

threatening to withdraw the recognition of the petitioner college for conducting courses in B.Ed., D.Ed and M.Ed. The show cause notice was responded by the petitioner college by sending a detailed reply on 25.5.2012. It is alleged that despite submission of the said reply, the impugned show cause notice has not been withdrawn. Hence this petition.

It is stated in the short reply filed by the respondent that pursuant to an order passed by the High Court of Punjab and Haryana in W.P. No. 20056/2009, inspection of the petitioner college was conducted by the Northern Regional Committee and on the basis of its inspection report, the impugned show cause notice was issued to the petitioner college. In the meantime, the Supreme Court has held in Civil Appeal No. 3505/2012, National Council for Teacher Education and Anr. Vs. Vaishnav Institute of Technology and Management decided on 12.4.2012 that the Northern Regional Committee is not authorized to inspect any college unless it is so authorized by the Council. The respondent sought a clarification from the High Court of Punjab and Haryana on the basis of the said order of the Supreme Court and by the order dated 3.8.2012, the High Court had directed that inspection shall be carried out by the Council in terms of the order dated 12.4.2012 passed by the Supreme Court. Pursuant to these orders, it was resolved in the 204<sup>th</sup> Meeting of the NCR held from 27<sup>th</sup> to 29<sup>th</sup> August that inspection of all the institution shall be carried out by the NCTE.

Admittedly, the impugned show cause notice dated 14.5.2012 is based on the unauthorized inspection conducted by the respondent Northern Regional Committee. The Supreme Court has held in National Council for Teacher Education and Anr. Vs. Vaishnav Institute of Technology and Management (supra) that a Regional Committee of the NCTE has no power to inspect an institution unless it is so authorized by the

NCTE. Admittedly, the respondent Regional Committee was not authorized by the NCTE to inspect the petitioner college. Consequently, the impugned show cause notice based on the report of the unauthorized Inspection Committee constituted by the respondent is invalid and ineffective.

For the foregoing reasons, we find and hold that the impugned show cause notice dated 14.5.2012 is invalid and ineffective.

**Case No. 1637 of 2012**

**Petitioner:** Executive President, National Women's Welfare Society, Darwha, District Yavatmal, Maharashtra.

**Respondent:** The Principal Secretary, School Education and Sport, Department, Government of Maharashtra, Mantralaya, Mumbai.

By this petition, the petitioner society, a minority educational institution declared by the State Government vide memo No. ASS-2008/230/C.R.16/2008/Desk-1 dated 7.7.2008, seeks a direction to the State Government to grant permission for establishment of a Modern Urdu Science Junior College at Karanja, District Washim, (Maharashtra). It is alleged that the petitioner had submitted a proposal for establishment of the said college which was duly recommended by the Education Officer, Zila Parishad, Washim vide letter No. Ja.Kr./JIPWA/Mashivi/1087/2010 dated 12.7.2010. On evaluation of the recommendations of the District Education Officer, Zila Parishad, Washim, the Director of Education, Pune also supported the said declaration and forwarded it to the Principal Secretary, Education Department, Government of Maharashtra vide memo No. H.S.C./112010 /23078/12 HS/8160 dated 20.7.2010. The said proposal was rejected by the Government on the ground that one of the committees had not recommended the said proposal. It is alleged that the

impugned action of the State Government in rejecting the petitioner's proposal for establishment of the proposed junior college is violative of the educational rights of the minorities enshrined in Article 30(1) of the Constitution.

Despite service of notice, none entered appearance on behalf of the respondent. Hence the case is proceeded ex-parte.

A stream of Supreme Court rulings commencing with the Kerala Education Bill, 1957 (AIR 1958 SC 959) and climaxed by P. A. Inamdar & Ors. Vs. State of Maharashtra & Ors. (2005) 6SCC 537 (Civil Appeal No.5041 of 2005) decided on 12<sup>th</sup> August 2005 by the 7-Judges Bench of the Supreme Court has settled the law for the present. The whole edifice of case law on Article 30 (1) of the Constitution has been bed rocked in Kerala Education Bill's case (supra). Article 30 (1) of the Constitution gives the minorities a fundamental right to establish and administer educational institutions of their choice. The rationale behind Article 30 (1) 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. They, being part of the fundamental rights, are invested with a sanctity and a status higher than that of the ordinary the law and, consequently, every legal provision or executive action must conform to the mandates implied in them. The prohibition is contained in Article 13 which bars the State from making any law or rule or legislation abridging or limiting any of these provisions under Chapter III of the Constitution and threatens to veto any law, rule and regulation found inconsistent with. The term "law" includes within its

amplitude any ordinance, order, bye-law, rule, regulation, notification, custom or usage having the force of law and the prohibition binds all such instrumentalities within the State as have legal authority to formulate such law. In the case of Ahmedabad St. Xavier College Society Vs. State of Gujarat AIR 1974 SC 1389, their Lordships of the Supreme Court attributed the real reason for Article 30 (1) of the Constitution “to the conscience of the nation that the minorities, religious as well as linguistic, are not prohibited from establishing and administering educational institutions of their choice for the purpose of giving their children the best general education to make them complete men and women of the country. The minorities are given this protection under Article 30 in order to preserve and strengthen the integrity and unity of the country. The sphere of general secular education is intended to develop the commonness of boys and girls of our country. This is the true spirit of liberty, equality and fraternity through the medium of education. If religious or linguistic minorities are not given protection under Article 30 to establish and administer educational institution of their choice, they will feel isolated and separate. General secular education will open doors of perception and act as the natural light of mind for our countrymen to live in the whole”.

In Re: Kerala Education Bill (supra), S. R. Das, CJ, observed :-

“The key to the understanding of the true meaning and implication of the article under consideration are the words ‘of their choice’. It is said that the dominant word is ‘choice’ and the content of that article is as wide as the choice of the particular minority community may make it.”

In the case of P. A. Inamdar & Ors. Vs. State of Maharashtra & Ors. (supra), their Lordships of the Supreme Court observed as under :-

“.....The object underlying article 30 (1) is to see the desire of minorities being fulfilled that their children should be brought up properly and efficiently and acquire eligibility for higher university education and go out in the world fully equipped with such intellectual attainments as will make them fit for entering public services, educational institutions imparting higher instructions including general secular education. Thus, the twin objects sought to be achieved by Article 30 (1) in the interest of minorities are : (i) to enable such minority to conserve its religion and language, and (ii) to give a thorough, good general education to the children belonging to such minority.”

It would be wrong to assume that an unrestricted right as in Article 30 (1) of the Constitution postulates absence of regulations. It has been held in St. Xavier College case (supra) and the case of T.M.A. Pai Foundation Vs. State of Karnataka (2002) 8 SCC 481 that regulations can be prescribed in spirit of the unrestricted nature of the right. Such regulations must satisfy a dual test; the test of reasonableness, and the test that it is regulative of the educational character of the institution. A regulation would be deemed unreasonable only if it was totally destructive of the right of the minority to establish and administer educational institutions. Thus, a benignantly regulated liberty which neither abridges nor exaggerates autonomy but promotes better performance is the right construction of

the constitutional provisions. Such an approach enables the fundamental right meaningfully to fulfill its trust with the minorities' destiny in a pluralist polity. That is the authentic voice of our democracy. To regulate, be it noted, is not to restrict but to facilitate effective exercise of the very right. The constitutional estate of the minorities should not be encroached upon, neither allowed to be neglected nor mal-administered.

At this juncture, we may also usefully excerpt the following observations of their lordships in the case of P. A. Inamdar & Ors. (supra) :-

“.....Therefore, the State may prescribe reasonable regulations to ensure the excellence of the educational institutions to be granted aid or to be recognized. To wit, it is open to the State to lay down conditions for recognition such as, an institution must have a particular amount of funds or properties or number of students or standard of education and so on. The dividing line is that in the name of laying down conditions for aid or recognition the State cannot directly or indirectly defeat the very protection conferred by Article 30 (1) on the minority to establish and administer educational institutions..... The dividing line between how far the regulation would remain within the constitutional limits and when the regulations would cross the limits and be vulnerable is fine yet perceptible and has been demonstrated in several judicial pronouncements which can be cited as illustrations. They have been dealt with meticulous precision coupled with brevity by S. B. Sinha, J. in his opinion in Islamic Academy.”

In Ahmedabad St. Xavier College case (supra), it was observed that :-

“The right under Article 30 cannot be exercised in vacuo. Nor would it be a right to refer to affiliation or recognition as privileges granted by the State. In a democratic system of Government with emphasis on education and enrichment of its citizens, there must be elements which give protection to them. The meaningful exercise of the right under Article 30 (1) would and must necessarily involve recognition of the secular education imparted by the minority institutions without which a right will be a mere husk.”

The Supreme Court has clearly recognized that running a minority educational institution is also as fundamental and important as other rights conferred on the citizens of the country [Managing Board of Delhi, Bihar, Ranchi & Ors. Vs. State of Bihar & Ors. (1984) 4 SCC 500]. Any state action which anyway destroys, curbs or interferes with such right would be violative of Article 30.”

It is also relevant to mention that imparting education is a state function. The state, however, having regard to its financial constraints is not always in a position to perform its duties. The function of imparting education has been to a large extent taken over by the citizens themselves. The State Government is the custodian of fundamental rights of the citizens. Keeping in view the mandate of Article 30 (1) of the Constitution, the State Government is under clear constitutional obligation to consider the choice and needs of a minority community for imparting higher/professional education to its children.

It needs to be highlighted that Urdu language has a primary importance for the integration of the largest Indian minority, the Muslims, into the natural mainstream. It has to be borne in mind that a language must never be confused with a religion. According to Dr.Samuel Johnson, languages are the pedigree of a nation. The languages including Urdu in the Eighth Schedule of the Constitution are the pedigree of the people of India. Unfortunately, after partition, Urdu language has been identified with Islam. Today, 99% of those who declare Urdu as their mother tongue are Muslims and thus Urdu has now become the language only of the Muslims. In fact, some of the State Governments are responsible for making Urdu as the language of Muslims. It is relevant to mention that despite all Constitutional guarantees against discrimination, Urdu has been systematically eliminated from the curriculum of minority educational institutions. The Constitution defines India as a secular State, but at times some of the decisions taken by the decision making people completely betray the very concept of

secularism. We feel that the survival of Urdu is a vital question which demands political will and strategy to address. Needless to add here that Urdu is a flower of national and international value and it should not be an “endangered species”. In this context, we may usefully excerpt the following observations of Dr. Zakir Husain’s stand on Urdu while speaking at the Urdu Research Institute on 27.11.1959. He said :-

“I feel that this language is prophetic of the blossoming of the new life which we Indians desire for our country in the era of its freedom...the longing to build out of distinctive and diverse elements a common culture, as the Ganges and the Jamuna together make one mighty stream... Urdu is not the language of the community or a religion, it was not imposed by any government, or created artificially with a particular motive. It is the language of the people, of the common people... It is the language of the *faqirs* and saints, who were desperately anxious to communicate the love which overflowed their hearts to the common people... Urdu is, therefore, the language of affection and love, the language of tolerance, of an intercourse animated with goodwill... As Urdu is not a language confined to a particular religion and those who speak and understand it are found all over the country, it should be foremost amongst the means of forging national unity... To regard a language in which we find the whole literature of the Arya Samaj, a language which the Christians have utilized to the full for their religious purposes as a Muslim language and thereby cultivate narrow mindedness is neither honest nor wise...”

It is the Constitutional obligation of the State to provide every facility to Muslims who want to conserve their language, script and culture. Consequently, Urdu language has to be saved from extinction through teaching in different schools, colleges and universities. Needless to add here that the Urdu is also a victim of political geography. Although it is the largest minority language, it received the least support from the State and the present case is a classic example of the State’s indifference towards conservation of this beautiful language. The State Government should have been responsive to the demand for facilities needed to teach Urdu at the Post Graduate level. It is the responsibility of the State and its instrumentalities to ensure that

students from minority communities do not suffer any disadvantage due to non-availability of schools and colleges in their primary language.

In the instant case, the Education Officer, Zila Parishad, Washim had recommended petitioner's proposal for establishment of Urdu Science Junior College at Karanja. Mr. Ataur Rahman Khan Akbar Khan has filed his affidavit stating that the petitioner institution has all the infrastructural and instructional facilities for establishment of the proposed college. In this view of the matter the State Government ought not to have rejected the petitioner's proposal for establishment of the proposed junior college. It is a matter of great concern today that educational rights of the minorities enshrined under Article 30(1) of the Constitution have come under impressing strain contrary to the spirit enshrined in the Constitution. Article 30(1) of the Constitution should be construed according to the liberal, general and sympathetic approach. This approach should be reflected in the action taken by the State and its instrumentality and open to legitimate demand or grievance made by a minority community.

For the foregoing reasons, we recommend to the State Government to reconsider the petitioner's proposal for establishment of the proposed Urdu Science Junior College at Karanja, District Washim, Maharashtra.

**Case No. 2737 of 2013**

**Petitioner:** Aadinath College of Education, Plot No. 199, NH 26, Village Mahhra Tehsil and P.O. Lalitpur, District Lalitput, Uttar Pradesh Managed by Aadinath Education Society Through its Secretary Mr. Pradeep Kumar Jain.

**Respondent:** 1. The Director, Basic Education, Government of Uttar Pradesh, Lucknow, Uttar Pradesh

2. The Principal Secretary, Education, Government of Uttar Pradesh, Lucknow, Uttar Pradesh

Challenge in this petition is to the impugned order No. 3197/15-11/2012 dated 12.09.2012 of the respondent No. 2 restricting the right of a minority educational institution to select and admit students in respect of 50% seats only. It is alleged that the petitioner institution is a minority educational institution covered under Article 30(1) of the Constitution vide certificate of minority status dated 22.5.2013 granted by this Commission. It is further alleged that the impugned order of the State Government impinges upon its minority character and as such is violative of the educational rights of the minorities enshrined in Article 30(1) of the Constitution.

The petition has been resisted by the respondent on the ground that the petitioner institution, being a minority educational institution covered under Article 30(1) of the Constitution, is entitled to select and admit students to the extent of 50% only of the intake sanctioned by the Government and the remaining 50% seats shall be filled up by the test conducted by the District Level Committee.

The issue which arises for consideration is: to whether the impugned order dated 12.9.2012 is violative of the educational rights of minorities enshrined in Article 30(1) of the Constitution? It is beyond the pale of controversy that the petitioner institution is a minority educational institution covered under Article 30(1) of the Constitution. It is well settled that the right to admit students is an important facet of the right to administer an unaided minority educational institution and as such is entitled to admit cent per cent students of its own community. In this connection, we may usefully excerpts from the following observations of the Supreme Court made in

the judgment rendered in T.M.A. Pai Foundation vs. State of Karnataka (2002) 8 SCC 481.

“Q.No. 4. Whether the admission of students to minority educational institutions, whether aided or unaided, can be regulated by the State Government or by the university to which the institution is affiliated?”

A. Admission of students to unaided minority educational institutions viz. schools where scope for merit-based selection is practically nil, cannot be regulated by the State or the university (except for providing the qualifications and minimum conditions of eligibility in the interest of academic standards).

Right to admit students being an essential facet of right to administer educational institutions of their choice, as contemplated under Article 30 of the Constitution, the State Government or the University may not be entitled to interfere with that right in respect of unaided minority institutions provided, however, that the admission to the unaided educational institutions is on transparent basis and merit is the criterion. The right to administer not being an absolute one, there could be regulatory measures for ensuring educational standards and maintaining excellence thereof and it is more so, in the matter of admissions to undergraduate colleges and professional institutions.

The moment aid is received or taken by a minority educational institutions it, would be governed by Article 29(2) and would then not be able to refuse admission on grounds of religion, race, caste, language or any of them. In other words it cannot then give preference to students of its own community. Observance of *inter se* merit amongst the applicants must be ensured. In the case of aided professional institutions, it can also be stipulated that passing of common entrance test held by the State agency is necessary to seek admission.”

“Q 5. (a) Whether the minorities’ rights to establish and administer educational institutions of their choice will include the procedure and method of admission and selection of students?

A. A minority institution may have its own procedure and method of admission as well as selection of students but such procedure must be fair and transparent and selection of students in professional and higher educational colleges should be on the basis of merit. The procedure adopted or selection made should not tantamount to maladministration. Even an unaided minority institution, ought not to ignore merit of the students for admission, while exercising its right to admit students to the colleges aforesaid, as in that event, the institution will fail to achieve excellence.”

It is also relevant to mention that in the clarificatory judgment rendered by the Supreme Court in P.A. Inamdar vs. State of Maharashtra (2005) 6 SCC 537, it was

held that “so far as the minority unaided institutions are concerned to admit students being one of the components of “right to establish and administer an institution, the State cannot interfere therewith”. It was also held that “Our answer to the first question is that neither the policy of reservation can be enforced by the State nor any quota or percentage of admissions can be carved out to be appropriated by the State in a minority or non-minority unaided educational institution. 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 States, both to a limited extent only and not in a manner and to such an extent that their minority educational institution status is lost. If they do so, they lose the protection of Article 30(1). “

As stated earlier the petitioner institution is an unaided minority educational institution and in view of the aforesaid decisions of the Supreme Court the manager of petitioner institution is entitled to admit cent per cent students of its own community. Consequently, we have no hesitation in holding that the impugned order dated 12.9.2012 of the respondent No. 2 clearly impinges upon the minority character of the petitioner institution and as such it is violative of the educational rights of the minorities enshrined in Article 30(1) of the Constitution.

It needs to be highlighted that Article 13 declares that all the laws, rules, regulations and notifications etc. in so far as they are inconsistent with the fundamental rights guaranteed under Chapter III of the Constitution, shall, to the extent of such inconsistency or contravention be void. That being so, the impugned order dated 12.09.2012 of the State Government is hit by Article 30(1) of the Constitution read with Article 13 of the Constitution and as such it is void and ineffective to the extent of restricting the right of the petitioner institution to select and admit 50% students against the sanctioned intake. It also needs to be highlighted that

by the order No. 3197/15-11-2012 dated 12.09.2012 of the Government of U.P. and the order No. 44050/2013-14 dated 12.2.2014 of the Director, Rajya Shaishik Anusandhan aur Prakshikshan Parishad, Lucknow, U.P., Teerthankar Mahavdyala has been allowed to select and admit cent per cent students in the university on the ground of its being minority educational institution covered under Article 30(1) of the Constitution. The basis of these orders is the judgment rendered by the Supreme Court in T.M.A. Pai Foundation (supra), restraining the State Government from interfering with the right to select and admit students in a minority educational institution. Their Lordships have further observed that “minority unaided institution can legitimately claim unfettered fundamental right to choose the students to be allowed admission and the procedure therefor subject to its being fair, transparent and non exploitative”. We fail to understand as to why the petitioner institution has been discriminated against in not applying the law declared by the Supreme Court in T.M.A. Pai Foundation (supra) to the petitioner institution.

For the foregoing reasons, we find and hold that the impugned order dated 12.9.2012 of the respondent No. 2, which impinges upon the minorities character of the petitioner institution cannot be sustained in law and it is void to the extent of its applicability to a minority educational institution restricting its right to choose the students to be allowed admission.

Consequently, the petition is allowed and we strongly recommend to the State Government to follow the law of the land declared by the Supreme Court in T.M.A. Pai Foundation vs. State of Karnataka (2002) 8 SCC 481 and P.A. Inamdar vs. State of Maharashtra (2005) 6 SCC 537 and allow to exercise the petitioner institution its fundamental right to choose the students to be allowed admission in the institution on the same pattern as was adopted by the State Government in respect of Teerthankar

Mahaveer Institute of Management and Technology in terms of the order dated 12.2.2014 cited above.

**Appeal No. 02 of 2013**

**Petitioner:** Mahaveer Swami Institute of Technology, Village Jagdishpur, Near O.P. Jindal University, Distt. Sonapat, Haryana.

**Respondent:** Financial Commissioner & Principal Secretary, Department of Technical Education, Government of Haryana, Room No. 503/5, New Secretariat, Sector – 17, Chandigarh.

Challenge in this Appeal filed under Section 12 A of the National Commission for Minority Educational Institutions Act (for short the Act) is to the order dated 11.1.2013 rejecting the appellant's application for grant of NOC for its affiliation to the Guru Gobind Singh Indraprastha University, Delhi (for short the University). It is alleged that appellant college is a minority educational institution within the meaning of Section 2(g) of the Act vide certificate dated 6.6.2012 granted by the commission in Case No. 677 of 2012. It is also alleged that the impugned order dated 11.1.2013, being violative of Section 10-A of the Act, is illegal and ineffective.

The appeal has been resisted by the respondent on the ground that the State cannot grant NOC to a college/institution located therein to be affiliated to the university, which is located in Delhi. It is also alleged that the university also cannot exercise extra territorial jurisdiction beyond the territorial limits of Delhi for granting affiliation to any college/institution located in the State of Haryana. Alternatively, it is alleged that the appellant may seek affiliation to the Deenbandhu Chhotu Ram University of Science and Technology (DCRUDT), Murthal, Sonapat as it is the only university authorized to exercise powers over the appellant college.

The point for consideration in this appeal is: whether the impugned order being violative of Section 10A of the Act is invalid and ineffective? The impugned order dated 11.1.2013 is as under :

“From

The Director General  
Technical Education Haryana  
Panchkula

To

The Director/Principal  
Mahaveer Swami Institute of Technology  
Village Jagdishpur, near O.P. Jindal University  
Distt. Sonapat

Memo No. 59/81(214)09 / Engg.

Dated 11.1.2013

Subject Request for Grant of NOC to Mahaveer Swami Institute of Technology (Minority Institution), Village Jagdishpur, Near O.P. Jindal University, Distt. Sonapat to be affiliated with GGSIPU, Delhi

Kindly refer your office memo No. 30-31 dated 5/11/2012 on the subject noted above.

In this connection, it is intimated that in the light of the State Government conscious decision that none of the institute/college located in the State of Haryana shall be allowed to seek affiliation from a University situated outside Haryana and as per the Hon'ble Delhi High Court judgment in LPA No. 756 of 2011, the request of the institute cannot be considered.

Joint Director (Engg.)  
For Director-General, Technical Education  
Haryana, Panchkula”

The impugned order spells out that the State Government had taken a decision that none of the institutes/colleges located in the State shall be allowed to seek affiliation from a university located outside the State and in view of the said policy decision and relying upon a decision rendered by the Delhi High Court in LPA No. 756/2011, the appellant’s request for grant of NOC was disallowed. It needs to be highlighted that the reply filed on behalf of the respondent is conspicuous by the absence of any reference to such a policy decision taken by the State Government. Moreover, no such policy decision was also placed before the Commission. This circumstance to a very great extent probabalises the appellant’s contention that no such policy decision was taken by the State Government and the appellant’s application for grant of NOC was rejected on a ground which is wholly unsustainable in law.

It is relevant to mention that Section 10A of the Act confers an unfettered right on a minority education 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 10 A is as under :

**“10A. 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.”

Needless to add here that affiliation is also a facility, which a university grants to an educational institution. No educational institution can survive without recognition by the State Government. Without recognition the educational institutions can not avail any benefit flowing out of various beneficial schemes implemented by the Central Government. Affiliation is also a facility which a university grants to an educational institution. In Managing Board of the Milli Talimi Mission Bihar & ors. vs. State of Bihar & ors. 1984 (4) SCC 500, the Supreme 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 be 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 amounts to violation of the right guaranteed under Article 30(1) of the Constitution.

The right of the minorities to establish educational institutions of their choice will be without any meaning if affiliation or recognition is denied. It has been held by a Constitutional Bench of the Supreme Court in St. Xavier's College, Ahmedabad vs. State of Gujarat 1974 (1) SCC 717 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 (supra) that affiliation and recognition has to be available to every institution that fulfills the conditions for grant of such affiliation and recognition.

At this juncture, we may usefully excerpt the following observations of their Lordships of the Delhi High Court in decision rendered in LPA No. 256 of 2011, which are as under :-

“We are of the view that the refusal of the Governments of the States 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.”

It is relevant to mention that the appellant college is a minority educational institution covered under Article 30(1) of the Constitution and as such it has a right to seek affiliation to any university of its choice. Any policy decision of the State Government cannot destroy the said legal right-accruing from Section 10A of the Act. It needs to be highlighted that the impugned order does not say that the appellant's application for grant of NOC was rejected on the basis of any local law prohibiting colleges/institutions located in the State to be affiliated to any university other than the State. Para No. 25 of the said judgment records grant of affiliation by the university to a college located in Murthal, Distt. Sonapat. In our opinion, the ratio decidendi of the said decision of the Delhi High Court does not govern a case like in hand. It follows that the competent authority had wrongly applied the aforesaid decision of the Delhi High Court in rejecting the appellant's application for grant of the NOC.

Learned counsel for the appellant has invited our attention to the memo No. 1/71-2011 Coord(3) dated 27.2.2013 in support of his contention that the appellant has been discriminated against for grant of NOC the said memo is as under :-

UNDER REGISTERED /SPEED POST

From

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 – 110 001

Memo No. 01/71-2011 Coord. (3)

Dated, Panchkula, the 27.2.2013

Subject : Bhagwan Mahavir College of Education, village Jagdishpura, Near O.P. Jindal University, Sonipat Vs. Principal Secretary to Govt. Haryana, Education Department- Regarding grant of NOC for affiliation. Hearing on 28.2.2013 at 11.00 a.m.

Kindly refer to your notice issued vide F.No. 381 of 2013/1808 dated 19.2.2013 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, Sonipat' 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 25.9.2006 the concerned institution 'has a right of seeking 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 19.2.2013 may be withdrawn/filed.

Deputy Director Cadet Corps,  
For Principal Secretary to Government of Haryana,  
Higher Education Department, Panchkula”

A bare reading of the said memo makes it clear that it is mentioned in the guidelines issued by the government that a minority educational institution has a right of seeking affiliation with any affiliating body of its choice vide memo No. 1/66-2003 Co.(3) dated 25.9.2006. This memo directly stares into the face of the impugned order giving rise to an inference that the appellant’s application for grant of NOC was rejected on some extraneous consideration.

It is relevant to mention that Section 10-A of the Act confers a right on a minority educational institution to seek affiliation to a university of its choice but with a qualification that it is subject to the law under which the university is constituted. This brings us to the Guru Gobind Singh Indraprastha University Act. Section 4 of the GGSUUP Act, which is relevant for the purposes, reads as under :-

“4. Jurisdiction:

(1) Save as otherwise provided by or under this Act, the limits of the 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.”

(emphasis supplied)

In terms of Section 4 *ibid* affiliation of an educational institution within the territorial limit of the National Capital Region is permissible. It is beyond the pale of controversy that Sonapat is within the territorial limits of the National Capital Region as defined in the National Capital Region Planning Board Act, 1985. That being so, the appellant college, which is located within the territorial limits of the National Capital Region, has a right to seek affiliation to the university. Resultantly, thus, we find and hold that the impugned order rejecting the appellant’s application for grant of NOC for its affiliation to the university is invalid and ineffective.

For the foregoing reasons, the appeal is allowed under Section 12-A of the Act and the impugned order dated 11.1.2013 is hereby set aside. A No Objection Certificate is hereby granted to the appellant college for its affiliation to the Guru Gobind Singh Indraprastha University, Delhi. The university is directed to act upon the N.O.C. granted to the appellant college by this Commission.

**Case No. 1878 of 2012 and Case No. 1879 of 2012**

**Petitioner:** (i) Abhilasha College of Education, Ratibad, Bhopal, Madhya Pradesh.

- (ii) A.C.M. college of Education, Mahaveer Talkies, Seoni, Madhya Pradesh

- Respondent:** (i) The Commissioner, Higher Education, 5<sup>th</sup> Floor, Satpuda Bhawan, Bhopal (Arera Hills), Madhya Pradesh.
- (ii) The Secretary, Higher Education, Secretariat, Bhopal, (Arera Hills), Madhya Pradesh.

Two separate petitions raising similar questions of law and facts have been filed before the Commission and they have registered as Case Nos. 1878/2012 and 1879/2012. Since a common question of law and facts is involved in both the cases and they are being disposed by this common order.

Case No. 1878/ 2012

The petitioner college has been declared as a minority educational college by this Commission vide order dated 27.3.2008 passed in Case No. 14 of 2008. The petitioner college was granted recognition by the NCTE for conducting B.Ed. courses with an intake capacity of 100 seats vide orders dated 27.8.2008. The petitioner institution college is affiliated to the Barkat-Ullah University, Bhopal. As per policy of the State Government, seats in the petitioner college are allotted to the students by the State Government. In the academic year 2009-10, the petitioner college was allotted only 30 students from the Muslim Community against the intake capacity of 100 seats. The said allocation of seats was again repeated in the academic year of 2010-11. In the academic year 2011-12, the petitioner college was allotted only 27 seats from the Muslim Community against the sanctioned intake of 100.

Case No. 1879/2012

The petitioner college has been declared as a minority educational institution by the Commission vide orders dated 21.1.2010 passed in Case No. 1534 of 2009. The petitioner college was granted recognition by the NCTE for conducting B.Ed. course

with an intake capacity of 100 seats. The petitioner is affiliated to Rani Durgawati University, Jabalpur. In the academic year 2009-2010, the petitioner college was allotted only 15 students from the Minority Community by the State Government. Similarly, only 36 and 18 students from the Minority Community were allotted to the petitioner college for the academic years 2010-2011 and 2011-2012 respectively against the sanctioned intake of 100 seats.

It is alleged that both the colleges are unaided and as per policy of the State Government, they are not allowed to exercise their fundamental right enshrined in Article 30(1) of the Constitution to admit students from the Minority Community by selecting them out of the list of successful candidates prepared at the CET. On the contrary, all the seats of the said colleges are allotted by the State Government; which is violative of the right of the minorities guaranteed under Article 30(1) of the Constitution. It is also alleged that such allotment of seats by the State Government in the petitioner colleges is likely to destroy their minority status.

Both the petitions have been resisted by the respondent on the ground that the policy of admission in B.Ed. colleges adopted by the State Government is in consonance with the provisions of the NCTE Act. It is alleged that seats are allotted to B.Ed. colleges on the basis of merit as well as preference offered by the candidates. It is also alleged that out of the sanctioned intake of 100 seats, 50% seats are reserved for Minority Community and these seats are to be filled up through CET conducted by the State Government. In case, any seat meant for Minority Community remains vacant, the State Government can allot it to a non-minority student. It is further alleged that out of the students from the minority community allotted to the petitioner colleges only few took admissions and the remaining vacant seats were allotted to non-minority

students. Lastly, it is alleged that the present policy of admission is in accordance with the law declared by the Supreme Court in P.A. Inamdar vs. State of Maharashtra (2005) 6 SCC 537.

In view of the rival contentions of the parties, the question which arises for consideration is whether the impugned action of the State Government is violative of the fundamental right enshrined in Article 30(1) of the Constitution.

It is beyond the pale of controversy that both the petitioner colleges are unaided minority educational institutions. It is also undisputed that the NCTE has granted recognition to both these colleges for conducting B.Ed. course with an intake capacity of 100 seats and; that these seats are allotted to the students including students from the minority community by the State Government. It is well settled that the right to administer means the right to manage and conduct the affairs of the minority institution. It includes right to choose its managing or governing body, right to appoint teaching and non-teaching staff, right to select its own medium of instruction and right to admit students of its choice from the minority community, which has established the educational institution. The State's power of regulation cannot render these core rights a teasing illusion or a promise of unreality. All these rights together form the integrated concept of right to administer. It is also well settled that any regulation which impinges upon the minority character of the institution is constitutionally impermissible (T.M.A. Pai Foundation vs. State of Karnataka (2002) 8 SCC 481, P.A. Inamdar vs. State of Maharashtra (2005) 6 SCC 537).

In a clarificatory judgment rendered by the Supreme Court in P.A. Inamdar (supra), following questions arose for consideration:-

- (a) To what extent can the State regulate admissions made by unaided (minority or non-minority) educational institutions? Can the State enforce its policy of reservation and/or appropriate to itself any quota in admission to such institutions?
- (b) Whether unaided (minority and non-minority) educational institutions are free to devise their own admission procedure or whether the direction made in Islamic Academy for compulsorily holding an entrance test by the State or association of institutions and to choose therefrom the students entitled to admission in such institutions, can be sustained in light of the law laid down in Pai Foundation?
- (c) Whether Islamic Academy could have issued guidelines in the matter of regulating the fee payable by the students to the educational institutions?

In the instant case, the question Nos. (a) and (b) are relevant for deciding the case. As regards the question No. (a), their Lordships of the Supreme Court have answered it as under:-

“Our answer to the first question is that neither the policy of reservation can be enforced by the State nor any quota or percentage of admissions can be carved out to be appropriated by the State in a minority or non-minority unaided educational institution. 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 States, both to a limited extent only and not in a manner and to such an extent that their minority educational institution status is lost. If they do so, they lose the protection of Article 30(1).

As regards, the question (b), their Lordships have observed that “so far as the minority unaided institutions are concerned to admit students being one of the components of “the right to establish and administer an institution”. According to their Lordships “In minority educational institutions, aided or unaided, admissions shall be at the State level. Transparency and merit shall have to be ensured”. It needs to be highlighted that the petitioner colleges are not claiming the right to conduct their own entrance test for admission of students. Their sole grievance is that they are not allowed to exercise their right to admit students of their choice from their community out of the list of successful candidates, prepared at the CET. The Supreme Court has held in T.M.A. Pai Foundation (supra) that it is not permissible for the State to impose a quota or its own reservation policy on minority educational institutions. At this juncture, we may usefully excerpt the following observation of their Lordships of the Supreme Court in P.A. Inamdar (supra) “..... that a minority educational institution has a right to admit students of its own choice, it can, as a matter of its own free will admit students of non-minority community. However, non-minority cannot be forced upon it. Only restriction on the free will of the minority educational institution admitting students belonging to a non-minority community is, as spelt out by Article 30 itself that the manner and number of such admissions should not be violative of the minority character of the institution. Their Lordships have further observed that “..... Holding of such common entrance test followed by centralized counseling or in other words’, single window system regulating admissions does not cause any dent in the right of minority unaided educational institutions to admit students of their choice. **Such choice can be exercised from out of the list of successful candidates prepared at the CET without altering the order of merit inter se of the students so chosen**”.

It is an admitted position that students are being imposed on the petitioner colleges by the State Government under the garb of the rules regulating admissions in B.Ed. colleges and the petitioner colleges are not allowed to admit students of their choice by selecting them from out of the list of the successful candidates prepared at the CET. Such imposition of students by the State Government on seats available in the petitioner colleges are acts constituting serious encroachment on the educational rights of the minorities enshrined in Article 30(1) of the Constitution and also on autonomy of these colleges as minority educational institutions. That being so, we have no hesitation in holding that the impugned action of the State Government in depriving the petitioner colleges of their right to admit students of their choice is violative of the educational rights of the minorities enshrined in Article 30(1) of the Constitution. Needless to add here that, Article 13 of the Constitution declares that any law, rule or regulation in breach of the fundamental rights would be void to the extent of such violation. Bearing in mind the mandate of Article 13 of the Constitution and the law declared by the Supreme Court in T.M.A. Pai Foundation and P.A. Inamdar (supra) we also find and hold that the rules regulating admissions in B.Ed. colleges of the State are not applicable to the B.Ed. Colleges covered under Article 30(1) of the Constitution.

For the foregoing reasons, we direct the State Government to implement the law declared by the Supreme Court in T.M.A. Pai Foundation and P.A. Inamdar (supra) by allowing the petitioner colleges to select students of their choice from out of the list of successful candidates prepared at the CET without altering the order of merit inter se of the students from their minority community so chosen. Since the petitioner colleges are unaided minority educational institutions, they can admit cent per cent students of their community. If any seat out of the sanctioned intake of 100

remains vacant, the same shall be surrendered to the State Government for being allotted to non-minority students in accordance with the directions of the High Court of Madhya Pradesh vide orders dated 6.5.2010 passed in Writ Petition No. 5577/2010.

We are also recommending to the State Government to take note of the declaration of law made by the Supreme Court in T.M.A. Pai Foundation and P.A. Inamdar (supra) in this regard and made suitable amendments to its Laws, Rules and Regulations to bring them in conformity with the principles set out therein. (Brahmo Samaj Education Society vs. State of West Bengal (2004) 6 Supreme Court Cases 224)

## **CHAPTER 11 – CONCLUSION**

Article 30 of the Constitution relating to rights of minorities specifically stipulates that; (1) All minorities, whether based on religion or language, shall have the right to establish and administer educational institutions of their choice.”

2. Article 30(1) refers to both religious and linguistic minorities. However, Section 2(f) of the NCMEI Act restricts the definition of minorities as a Community notified by the Central Government.

3. The Central Government has notified 6 communities, namely Muslims, Christians, Sikhs, Buddhists, Jains and Zorastrians (Parsees) as the 6 minority communities. Therefore, linguistic minorities at present do not fall within the ambit of the NCMEI Act.

4. Commission has been getting many applications for grant of linguistic minority status from various educational institutions. Commission has also been getting petitions/ applications for redressal of grievances from linguistic minority educational institutions. All such references are being disposed of by the Commission by informing the petitioners that linguistic minorities do not fall within the ambit of the provisions of the NCMEI Act.

5. Although, the Parliamentary Standing Committee relating to the Ministry of HRD has recommended for inclusion of linguistic minorities within the ambit of the NCMEI Act. The issue has not so far seen finality. Since Article 30(1) confers fundamental right on religious as well as linguistic minorities, interest of equity and justice require that linguistic minorities should also be brought within the domain of the NCMEI Act by incorporating suitable amendments therein. The Commission recommends accordingly.

6. The primary responsibility for recognizing educational institutions and granting minority status certificate lies with the State Government. It was, however, found that many State Governments had not set up any mechanism to consider the request for grant of minority status certificate. In many States, the approach had been lethargic.

Commission also found that the officials concerned had not been sensitized about the rights guaranteed to minorities under Article 30(1) of the Constitution. The result had been that the Commission received large number of applications from the educational institutions for grant of minority status certificate.

7. The Commission feels all the State Government and Union Territories should establish a single-window system for grant of minority status certificate. Decentralisation can be considered for receipt of applications at District/ Zilla Parishad/ Taluka level where, after receipt of application, scrutiny/ inspection can be done within a time-bound manner before forwarding the application to the nodal authority for grant of minority status certificate. All State Governments and Union Territories should set up such a mechanism and give wide publicity to it.

8. Some State Government authorities grant minority status certificate only for a temporary period. Commission has unambiguously held that minority status certificate cannot be granted for a short duration. As 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, minority status can not be conferred on a minority educational institution for 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. Reference may, in this connection, be made to the following observations of their lordships: -

“.....In conclusion, we hold that if any entity is once declared as minority entitling to the rights envisaged under Article 30(1) of the Constitution of India, unless there is fundamental change of circumstances or suppression of facts the Government has no power to take away that cherished constitutional right which is a fundamental right and that too, by an ordinary letter without being preceded by a fair hearing in conformity with the principles of natural justice.”

Accordingly, Commission recommended to the State Governments that minority status certificate should be granted on a permanent basis which can be withdrawn or cancelled only after following due process of law.

9. Instances have also been brought to the notice of the Commission about the inconsistencies of the rules and regulations made by many regulatory authorities which are not in tune with the provisions of Article 30 (1). The apex court in its various judgments has clearly pointed out the rights enshrined in Article 30 (1). Commission recommend to the Central Government to look into the rules and regulations made by the Central regulatory authorities in education like U.G.C., AICTE, N.C.T.E., M.C.I., D.C.I., CBSE, etc. to see that they are in consonance with the law declared by the Supreme Court under Article 30. Reference in this connection is made to the decision of the Supreme Court in *Bramho Samaj vs State of West Bengal* (2004) 6 SSC 224.

10. Many instances have been brought to the notice of the Commission where the State Governments are reluctant to grant recognition to new educational institutions established by minority communities. Commission has observed that such tendency is primarily based on reluctance of the authorities to provide grant-in-aid. There were instances where the State Government wanted to withdraw from its role to provide grant-in-aid. While grant-in-aid is not a constitutional imperative, Commission has observed that in many cases the minority educational institutions located in rural, remote and tribal areas cannot be asked to fend for themselves as it is impossible to collect fees from the poorer sections of the society.

11. Without the financial aid from the State Government, it will be difficult for such educational institutions to sustain themselves and provide reasonable standards of education. Needless to mention here that the teachers at least should be paid a subsistence salary. In many remote and under-developed areas educational institutions run by the minority communities are the only rays of hope for the poor people. The State has a duty to support and strengthen such institutions especially with reference to the constitutional mandate to provide free and universal education for all children in the age group of 6-14 years enshrined under Article 21A. In the context of the operationalisation of the 'Right of Children to Free and Compulsory Education Act 2009', it is imperative that more educational institutions have to be set

up in remote and rural areas for easy accessibility of students. States should not shy away from this constitutional responsibility. It is, therefore, recommended that State Government should be directed to provide grant-in-aid to minority educational institutions located in far flung, remote, tribal and under-developed areas.