

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 11th Annual Report of the Commission for the financial year 2015-16. The report gives a complete account of all its activities during the financial year 15-16.

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 of the Commission are to:

- (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 93rd 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 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 acquiring 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 recommending 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 Central 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 the 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 ShastriBhavan moved to its own premises at JeevanTaraBuilding located at SansadMarg, New Delhi in August 2005. At present, the Commission is functioning from its office at 1st Floor (Gate No. 4), JeevanTaraBuilding, 5, SansadMarg, New Delhi. Initially the Central Government sanctioned 22 posts for the Commission for providing necessary administrative and office support. Later, 11 additional posts were sanctioned by the Central Government. At present, the Commission has the following 33 posts:-

S. No.	Name of Post	Number
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
	Total	33

The posts of Secretary, Deputy Secretary and Under Secretary have been filled up by the Commission on transfer on deputation basis from the Central Government. Some staff have been appointed through direct recruitment. Services of some officials have been engaged on contract basis.

CHAPTER 2 – COMPOSITION AND FUNCTIONS OF THE COMMISSION

The Commission was established through an Ordinance (No. 6 of 2004) notified on 11th 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. ShriZafar Agha assumed the charge of 3rd Member of the Commission on 26.3.2012.

Dr. Mohinder Singh, Member submitted his resignation on 30.9.2014 on personal and domestic grounds. The same was accepted by the Central Government. In his place for the remaining part of the tenure, Dr. NaheedAbidi, (Padma Shri) was appointed a Member upto 7.4.2015 till the tenure of Dr. Mohinder Singh came to an end. The tenure of Dr. Cyriac Thomas came to an end on 11.4.2015. Two new Members joined the Commission. Dr. Baltej Singh Mann joined with effect from 3rd December, 2015 and Dr. Naheed Abidi joined for the second tenure from 4th December, 2015. At present the post of Chairman is vacant.



From left: Dr. Naheed Abidi, Shree Zafar Agha and Dr. Baltej Singh Mann Hon'ble Members

The functions of the Commission as per Section 11 of the Act are the following:-

- (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 the following:-

- (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 the 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 section 193 and section 228 and for the purpose of section 196 of Indian Penal Code. 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 2015-16 the Commission conducted a total number of 170 sittings as a court and heard 4487 cases as per details given below:

Details of court sitting from 01.04.2015 to 31.03.2016

S. No.	date of sitting	number of cases
1.	01.04.2015	15
2.	06.04.2015	23
3.	07.04.2015	41
4.	08.04.2015	30
5.	09.04.2015	24
6.	13.04.2015	34
7.	15.04.2015	34
8.	16.04.2015	26
9.	20.04.2015	23
10.	21.04.2015	34

11.	22.04.2015	39
12.	23.04.2015	35
13.	27.04.2015	30
14.	28.04.2015	32
15.	29.04.2015	63
16.	30.04.2015	28
17.	05.05.2015	45
18.	06.05.2015	31
19.	07.05.2015	33
20.	11.05.2015	31
21.	12.05.2015	42
22.	18.05.2015	26
23.	19.05.2015	35
24.	20.05.2015	32
25.	21.05.2015	35
26.	25.05.2015	33
27.	26.05.2015	30
28.	27.05.2015	28
29.	28.05.2015	24
30.	01.07.2015	31
31.	02.07.2015	34
32.	06.07.2015	23

33.	07.07.2015	25
34.	08.07.2015	33
35.	09.07.2015	42
36.	13.07.2015	29
37.	14.07.2015	28
38.	15.07.2015	31
39.	16.07.2015	24
40.	20.07.2015	16
41.	21.07.2015	25
42.	22.07.2015	26
43.	23.07.2015	27
44.	27.07.2015	26
45.	28.07.2015	29
46.	29.07.2015	29
47.	30.07.2015	27
48.	03.08.2015	27
49.	04.08.2015	27
50.	05.08.2015	26
51.	06.08.2015	38
52.	10.08.2015	42
53.	11.08.2015	27
54.	12.08.2015	29

55.	13.08.2015	29
56.	17.08.2015	27
57.	18.08.2015	22
58.	19.08.2015	29
59.	20.08.2015	26
60.	24.08.2015	29
61.	25.08.2015	26
62.	26.08.2015	27
63.	27.08.2015	23
64.	31.08.2015	23
65.	01.09.2015	20
66.	02.09.2015	23
67.	03.09.2015	24
68.	07.09.2015	22
69.	08.09.2015	22
70.	09.09.2015	24
71.	10.09.2015	29
72.	14.09.2015	28
73.	21.09.2015	14
74.	22.09.2015	37
75.	23.09.2015	18
76.	24.09.2015	69

77.	28.09.2015	29
78.	29.09.2015	27
79.	30.09.2015	29
80.	01.10.2015	28
81.	05.10.2015	27
82.	06.10.2015	26
83.	07.10.2015	31
84.	08.10.2015	27
85.	12.10.2015	25
86.	13.10.2015	26
87.	14.10.2015	20
88.	15.10.2015	22
89.	26.10.2015	21
90.	27.10.2015	23
91.	28.10.2015	23
92.	29.10.2015	21
93.	30.10.2015	26
94.	02.11.2016	22
95.	03.11.2016	23
96.	04.11.2016	21
97.	05.11.2016	21
98.	06.11.2016	32

99.	09.11.2016	21
100.	10.11.2016	24
101.	12.11.2016	22
102.	13.11.2016	21
103.	16.11.2016	21
104.	17.11.2016	29
105.	18.11.2016	33
106.	19.11.2016	22
107.	23.11.2016	34
108.	24.11.2016	18
109.	26.11.2016	26
110.	30.11.2016	26
111.	01.12.2015	22
112.	02.12.2015	29
113.	03.12.2015	26
114.	07.12.2015	17
115.	08.12.2015	28
116.	09.12.2015	18
117.	10.12.2015	20
118.	14.12.2015	14
119.	15.12.2015	18
120.	16.12.2015	19

121.	17.12.2015	28
122.	04.01.2016	19
123.	05.01.2016	21
124.	06.01.2016	24
125.	07.01.2016	22
126.	11.01.2016	30
127.	12.01.2016	21
128.	13.01.2016	25
129.	14.01.2016	19
130.	18.01.2016	23
131.	19.01.2016	21
132.	20.01.2016	20
133.	21.01.2016	25
134.	25.01.2016	25
135.	27.01.2016	21
136.	28.01.2016	32
137.	01.02.2016	21
138.	02.02.2016	22
139.	03.02.2016	27
140.	04.02.2016	25
141.	08.02.2016	22
142.	09.02.2016	24

143.	10.02.2016	26
144.	11.02.2016	34
145.	15.02.2016	26
146.	16.02.2016	25
147.	17.02.2016	23
148.	18.02.2016	15
149.	22.02.2016	24
150.	23.02.2016	28
151.	24.02.2016	25
152.	25.02.2016	24
153.	29.02.2016	21
154.	01.03.2016	22
155.	02.03.2016	25
156.	03.03.2016	23
157.	07.03.2016	29
158.	08.03.2016	12
159.	09.03.2016	15
160.	10.03.2016	23
161.	14.03.2016	21
162.	15.03.2016	27
163.	16.03.2016	25
164.	17.03.2016	27

165.	21.03.2016	26
166.	22.03.2016	18
167.	28.03.2016	31
168.	29.03.2016	19
169.	30.03.2016	27
170.	31.03.2016	23
Total	170	4487

The Commission conducted fewer number of sittings as compared to the previous year 2014-15 and also heard fewer number cases compared within the previous year (which was 5602), mainly due to the reason that a large number of cases for grant of minority status certificate are received from educational institutions of Uttar Pradesh.

In respect of educational institutions of Uttar Pradesh, Lucknow Bench of Allahbad High Court in W. P. (MS) 4643 of 2013 – K. M. College Vs UOI, 4644- Abhinav Sena Vs UOI, 7307 – Ambica Devi Degree College Vs UOI restrained the Commission from exercising any powers for grant of Minority Status Certificate in the first instance vide their Order dated 2nd July, 2015.

However, the above judgment was challenged before the Division Bench of Lucknow Bench of Allahbad High Court. Vide its order dated 26th November 2015, the Division Bench set-aside the judgment of the above mentioned single judge. On account of this, the cases of Uttar Pradesh could not be heard for five months from July 2015 to November, 2015.

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

Year	Sitting	Cases
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
2014-15	176	5602

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.

Maximum number of 18 sittings were held in the month of July 2015. 17 sittings were held in the month of August 2015 and November 2015. Further, largest number of 511 cases were heard in April 2015 followed by July 2015- 505, August 2015- 477, May 2015- 425, November 2015 -416 and September 2015- 415 cases. 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 the sittings. Friday is judgment writing day. So normally, no sitting takes place on Friday.

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 and the Commission shall be deemed to be a civil court for the purpose of section 195 and chapter XXVI of the Code of Criminal Procedure 1973 (2 of 1974). The Commission being a quasi judicial organization, it 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, in order to ensure that the citizens have 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 under the Right to Information Act, 2005.

During 2015-16, Shri Sandeep Jain, Deputy Secretary functioned as Public Information Officer (w.e.f. 21.08.2014 till date). Shri Zafar Agha, Member, Commission functioned as First Appellate Authority. (w.e.f. 01.04.2015 to 08.07.2015) and subsequently Smt. Rita Chatterjee, Secretary of the Commission functioned as the First Appellate Authority (w.e.f. 09.07.2015 to 31.03.2016)

During the year under report, the Commission received 133 RTI application and 41 appeals. All the applications/appeals were disposed of within the prescribed time limit.

CHAPTER 5 – HIGHLIGHTS OF THE YEAR

The Commission was constituted by Ministry of Human Resource Development on 16th November, 2004 with its Headquarter at New Delhi. The Commission completed 10 years of its existence in November, 2014. During the 10 years, 11832 Minority Status Certificates (MSCs) were issued till 31.03.2016. The details of State-wise Minority Status Certificate issued for the last 10 years is at Annexure-I.

Digitalization of Record and new NCMEI website

In the meeting held in the Chamber of JS(MC&Admn.) on 8.1.2014, it was desired that website of NCMEI should be updated with the guidance of NIC by incorporating the details of minority status certificates issued to colleges, schools and other institutions run by religious minorities.

For the furtherance of the vision of the Ministry, M/s Akiko Sherman Infotech, an empanelled vendor of NICSI, was engaged by the Commission with the help of NIC for updating the website of the Commission. The Commission has also decided to invite applications for Minority Status Certificate online to save the time of applicant as well as of the Commission. For this purpose, M/s. Akiko Sherman Infotech has developed a programme which is under testing.

After detailed discussions with the Commission, M/s. Akiko Sherman Infotech has developed new website of the Commission. While developing the new website, the Commission stressed placing of all the information at one place which is commonly being asked by the applicants during the hearings of the Commission. For this purpose, the new website has been equipped with the format of application for MSC and appeal, details on right of minority educational institutions, procedure for filing application for MSC and for appeal, how to cancel MSC, aims and objects of the society/trust, details of the nodal officers and competent authorities declared by the state governments.

While having discussions with NIC about updating the website and keeping in view the vision of Hon'ble Prime Minister about digital India, it was also decided to digitise all the files, in which Minority Status Certificates have been granted by the Commission. For this purpose, the Commission engaged M/s. Enhira Software of Mumbai for scanning the notes and correspondence portion of the old files. About 10000 files have been scanned and put in digital form to save space.

In addition to above, the Commission has decided to install LAN and WAN in its office to fully automate the work of Commission. Workorder for LAN installation has been awarded. NIC has been requested to provide two lease line connectivity of 8 mbps. NIC have invited quotations in the regards from Railtel, Power Grid and MTNL.

The Commission has also decided to install biometric machine, CCTV cameras, file tracking system (FTS), visitors pass software etc. in near future.

CELEBRATION OF NATIONAL MINORITY DAY

To commemorate the International Minority Rights Day and Foundation Day, a National Seminar was organized by the National Commission for Minority Education Institutions (NCMEI) on the theme of "Minorities in India: Challenges and Prospects" on 18th December, 2015.

In his presidential remarks, the former Chairman of the Commission Justice M.S.A. Siddiqui stressed the need for minority empowerment in the country.

Rev. Valson Thampu, former Member of the Commission explained various Constitutional provisions which confer various rights on minorities.

Dr. Mohinder Singh, former Member of the Commission emphasised on the need of education in the country.

Economic Advisor, Higher Education, Ministry of Human Resource Development B.K. Pandey presented a lucid report of the Commission.

Earlier in his opening remarks, Zafar Agha, the senior most member explained functions of the National Commission for Minority Educational Institutions, which has been created to protect and safeguards the educational rights of the minorities guaranteed under Article 30. He also informed that recently the orders passed by the Commission have been challenged in various courts like Allahabad High Court, Lucknow Bench, Delhi High Court and they have upheld the orders of the Commission. This proves that the Commission has been able to protect the constitutional rights of the Minorities. At the same time it has taken steps to ensure that these rights are not misused by other communities falsely representing themselves as members of the minority community.

Mr Zafar Agha further informed that the Commission has also taken several initiatives to modernize its functioning and has taken quick steps in assuring transparency in its functioning by planning to grant Minority Status Certificates online. A project has been initiated with help of NIC. The entire procedure of granting MSC is expected to be online from next year. About 10000 files granting Minority Status Certificates have been digitised.

Presenting a vote of thanks Dr. Baltej Singh Mann emphasized the need to strengthen unity and integrity of the country by upholding the Constitutional provisions for the protection of minorities.

COORDINATORS' CONFERENCE

Large number of delegates from all over the country belonging to all minority communities, official of the Ministry of Human Resource Development, state/ district coordinators of the Commission and other dignitaries participated in the deliberations of the seminar.

A meeting of all the Coordinators under the chairmanship of Mr. Zafar Agha, Hon'ble Member, held on 7th August, 2015 at 11.00AM, in the conference room of the Commission, to sensitize them about the activities of the Commission and review

the work done by the Coordinators and outcomes of their activities. Shri Zafar Agha, Hon. Member informed that there are 46000 minority educational institutions. Out of these, 36000 institutions are run by the Christian community. Hence, it becomes apparent that awareness has to be created among other religious communities about their educational rights. It was also mentioned that in Kerala there is tremendous awareness about the rights of minority educational institutions. Further, in UP and Bihar also minority educational institutions are asserting themselves for their rights.

Shri Prakash Modi State Coordinator of Chhattisgarh stated that there were several complaints from the institutions run by the Jain community in getting minority status certificates from the state government. However, after the order of 24th May, 2015 which declared Jain Community as minority community throughout India the state government has declared to honor all minority status certificates. The state government also assured that scholarships for student will also be released on time. Shri Shailinder Jain from Aligarh complained against the officials of education department for not extending cooperation to minority educational institutions.

The meeting was attended by Shri Vimal Talkoti, Shri Shaikh Sulaiman Karol, Shri Binish Thomas, Smt. Sunita Sanjay Bohra, Shri Milind Yamble, Shri Pravin Jain, Smt. Aparna Sancheti, Shri Sanat Jain, Shri Prakash Modi, Shri Rahul Jain, Shri Gulam Rahman Khan, Shri Shailendra Jain, Shri Tahir Ali, Shri Abhishek Jain, Shri Pradhuman Jain, Shri Sanjay Kumar Jain, Shri P.A. Hamza, Shri Zafar A Khan, Shri Sachin Jain, Smt. Seema Jain and Shri Liyaquat Ali.

ACTIONS SPEAK

Minority panel regional conference on Feb 26

DP CORRESPONDENT
Chandigarh

The city will be holding regional conference of National Commission for Minority Educational Institutions (NCMEI). The official of the Chandigarh Administration confirmed that a letter to this effect has been received from the National Commission for Minority Educational Institutions, Union government on Friday.

He further stated that the event would be holding at Mountview Hotel, Sector 10 on February 26 from 9 am to 3 pm. Delegates from Punjab, Haryana, Himachal Pradesh, Jammu and Kashmir and Chandigarh will gather to discuss problems faced by minority educational institutions. The communique

States that main objective of the event is to take note of deprivation and violation of educational rights of minorities granted under Article 30 of the Constitution.

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The conference will be presided over by Prof Kap-tan Singh Solani, Governor, Punjab, Haryana and Administrator, Chandigarh and also deliver the presidential address of the conference. Haryana Chief Minister Manohar Lal Khattar will inaugurate the conference. Punjab Deputy Chief Minis-

ter Sukhbir Singh Badal will deliver the keynote address of the conference.

The ministers of minority from Haryana, Punjab and Himachal Pradesh have

consented their presence in the conference, stated the official. Besides, Zafar Agha, Dr Baltej Singh Mann, Dr Nahed Abidi all members of National Commission for Minorities along with its secretary and deputy secretary will also attend the conference. According to the sched-

ule of the conference, reception and registration will be done at 10 am and Haryana Chief Minister will deliver inaugural address after delivery of welcome and introductory address by Zafar Agha, member, NCMEI. Other who will address the conference include Dr Baltej Singh Mann, Dr Nahed Abidi, delegates from Chandigarh and Jammu and Kashmir. After tea break, interface with stakeholders will be held and at 3 pm, media briefing will be held.

Bikram Rana, state liaison officer, NSS Cell, Chandigarh said that services of NSS volunteers were also requisitioned for and they would help and assist the organisers to the conference a success.

Panel on minority educational bodies holds conference

EXPRESS NEWS SERVICE
CHANDIGARH, FEBRUARY 26

IN ORDER to create awareness about the rights of minority educational institutions across India, the National Commission for Minority Educational Institutions (NCMEI) organised a regional conference in Chandigarh on Friday. The conference was organised in collaboration with the Department of Education, Chandigarh Administration, wherein delegates from Punjab, Haryana, Himachal Pradesh, Jammu & Kashmir and Chandigarh participated.

Inaugurating the conference, UT Administrator Kaptaan Singh Solanki stressed the role of education in creating responsible citizens. Referring to the violent agitation that took place in Haryana last week, he said, "Lack of education creates a community that takes poor decisions, which gives rise to incidents like the recent unrest in Haryana and other acts of violence. More importantly, the most neglected sections of society, i.e. the minorities, must be guided."

Vivek High gets minority status

UT CRIES FOUL: Education dept officials claim objections ignored; 19 city schools have the status now

Aneesha Bedi
Express Staff Reporter

CHANDIGARH: The National Commission for Educational Institutions (NCEI) has granted minority institution status to Vivek High School, Sector 34, making it the 19th school in Chandigarh to have the tag. The NCEI's regional conference concluded in the city on Friday.

A minority school can draw up its own criteria for functioning. This is significant, especially for the freedom that it gives in the school management to regulate admissions. A state government/UT administration cannot interfere in the day-to-day business or educational activities or processes of minority institution.

The school had approached the NCEI for the grant of the status in 2012 after the UT education department objected to its application, claiming that the management had applied for the minority status only after the Right to Education Act was enacted. The Act mandates a school to admit a percentage of students under the Economically Weaker Section (EWS) for free.

UT education department officials expressed disappointment over objections being ignored. However, an email Vivek High School (chairperson HS Sidhanti) said, "We had applied for the status in 2012 with the depart-

ment. Then, they wanted to our, saying they did not have a modal agency to look into the issue. It is then that we approached the commission directly."

However, deputy director school education Chanchal Singh contradicted Malik. "The school did not even approach the administration before going to the commission. We then filed a counter affidavit and raised objections."

Deputy school education (DSE) Randeepjit Singh Brar said it was worrying that the school had been granted minority status, in spite of objections from the administration.

When questioned on not taking the UT administration's view, Zahir Akhtar, a member of the NCEI, said, "We did not receive any objection. If there is so much angst, the administration has to file a review petition and we will look into it. We will open the case."

UT education secretary Ajay Singh said, "We have asked for the Supreme Court's opinion which the commission has now referred to while granting the minority status to the school. We will respond once we go through it."

Malik added, "The new commission members decided to expedite pending cases and therefore resolved the issue of our certificate. I am thankful to the commission."



WHAT MINORITY STATUS BRINGS

1 A minority institution is not regulated by the Right to Education Act

2 The state government/UT cannot interfere in the day-to-day business or educational activities or processes of the institute.

UT EDUCATION DEPT'S OBJECTIONS

When the school was established by the Bhagwant Singh Charitable Trust, it was never stated that it was being established for the benefit of the Sikh minority.

The school applied for minority only after the Right to Education Act was enacted.

The school's admission policy does not reflect any interest for the welfare of the Sikh community.

The school did not have the minority status, but had always acted like one. It did not admit EWS students or adhere to other provisions of the RTE Act.

CONFUSION PERSISTS

Two opposing points of view have now emerged. One is that minority schools do not have to admit EWS students. However, education dept officials have contended that such schools have to admit students under the EWS category, as per respective land allotment scheme.

A NCEI member said the matter needed the intervention of a higher court. Malik added,

"We have been getting notices from regarding EWS enrolment. We will ask the commission for judicial intervention."

CASES OF THREE SCHOOLS PENDING

The applications of three schools for the grant of the status is pending. The decision has been taken on St. Stephen's School, Sector 45 and the education department has given NOCs to Gurji Mahal Public School, Sector 34, and Sri Guru Harjot Singh Sewar Secondary School, Sector 40, to function as minority institutions.



अल्पसंख्यक शिक्षण संस्थाओं को संवैधानिक अधिकार दिलाया प्राथमिकता : जफ़र आगा

राष्ट्रीय अल्पसंख्यक शैक्षणिक संस्थान आयोग भारत सरकार के राज्य व जिलों के समन्वयकों की कार्यशाला सम्पन्न



मंचासीन आयोग के माननीय सदस्य श्री जफ़र आगा, दारुं सेक्रेट्री श्रीमती रीता चटर्जी एवं वार्ड डिप्टी सेक्रेट्री संदीप जैन व अन्डर सेक्रेट्री नवीन कुमार एवं समन्वयकगण तथा सम्मानित करते हुए छत्तीसगढ़ राज्य के समन्वयक प्रकाश मोदी आदि।

नई दिल्ली (संवाददाता)। अल्पसंख्यकों की शिक्षण संस्थाओं के संवैधानिक अधिकारों की सुरक्षा, छात्र-छात्राओं को छात्रवृत्ति की सुनिश्चितता के साथ ही शिक्षण संस्थाओं को अल्पसंख्यक का दर्जा दिलाने में मानद समन्वयक जुटकर कार्य करें। यदि किसी अल्पसंख्यक शिक्षण संस्था के साथ अन्याय होता है तो समन्वयक की शिकायत पर त्वरित कार्यवाही की जाएगी।

भारत सरकार के राष्ट्रीय अल्पसंख्यक शैक्षणिक संस्था आयोग द्वारा कोर्टोनेटर की कार्यशाला आयोग के कार्यालय संसद मार्ग जीवनतार। बिल्डिंग में सम्पन्न हुई जिसमें आयोग के माननीय सदस्य भी जफ़र आगा ने कार्यशाला की अध्यक्षता करते हुए उक्त कथन किया।

उन्होंने कहा कि आयोग की पारिस्सी निष्पत्ति है उसके पंशरन में कोई परिवर्तन नहीं

होगा। आयोग द्वारा प्रतिदिन 30-35 प्रमाण पत्र जारी किए जा रहे हैं जिससे संस्थाओं को अल्पसंख्यक का दर्जा मिलने पर उनके हित सुरक्षित रखे जा सकें। श्री आगा ने कहा कि देश की आजादी के बाद लागू संविधान में 1952 से ही अल्पसंख्यकों को अपनी शिक्षण संस्थाएं संचालित करने का अधिकार था। इस कमीशन के गठन के बाद एक्ट 13 को तेजी से लागू किया जा रहा है।

उन्होंने बताया कि एक सर्वे के अनुसार देश में 46000 अल्पसंख्यक शिक्षण संस्थाओं में 36000 शिक्षण संस्थाएं क्रिश्चियन समाज की हैं। इससे सिद्ध होता है कि अन्य अल्पसंख्यक समाज की शिक्षण संस्थाओं को अल्पसंख्यक दर्जा हासिल करने में जागरूकता लानी होगी। केरला में सर्वाधिक जागरूकता की चर्चा करते हुये उन्होंने उ.प्र. बिहार में अल्पसंख्यकों को तेजी से आगे आने की जरूरत बताते हुये कहा कि सरकार, राजनैतिक दल, व

आयोग के समन्वयकगण जागरूकता के लिए इस मुद्दे को मिशन के रूप में लें।

आयोग की सचिव श्रीमती रीता चटर्जी ने बताया कि किसी भी शिक्षण संस्था में प्रबन्ध समिति में आधे से अधिक अल्पसंख्यक समुदाय के व्यक्ति होने चाहिये और उनके उद्देश्य भी अल्पसंख्यक समुदाय को समर्पित हो भले इन संस्थाओं में किसी भी जाति वर्ग के छात्र-छात्रा रह सकते हैं। शिक्षण संस्थाओं को अल्पसंख्यक का दर्जा दिए जाने और अल्पसंख्यकों के हितों के संरक्षण में शैक्षणिक आयोग द्वारा पूरा सहयोग करने का भी उन्होंने आधासन दिया। समन्वयक नियुक्ति की सूचना जिलाधिकारी, पुलिस अधीक्षक के सिखा सचिव, अल्पसंख्यक कल्याण अधिकारी, शिक्षा विभाग को भी देने का आधासन उन्होंने दिया।

आयोग के डिप्टी सेक्रेट्री संदीप जैन ने बताया कि समन्वयक आयोग के वृद्ध अधिकारों एवम् अल्पसंख्यकों को मिलने वाली सुविधाओं का भलीभांति अध्ययन कर लें

क्योंकि कई बार अधिकारी वस्तुस्थिति की, जानकारी नहीं देते हैं। अतः उनकी लिखित शिकायत करें। शिकायत सही पाए जाने पर सविधान के अनुसार दृष्टात्मक कार्यवाही की जाएगी।

उन्होंने सभी समन्वयकों से दृढ़ संकल्प के साथ आगे बढ़ने की अपील की।

बैठक में छत्तीसगढ़ राज्य के कोआर्डिनेटर प्रकाश मोदी ने बताया कि जैन समाज को अल्पसंख्यक प्रमाणपत्र मिलने में जंगह-जगह शिकायत आ रही थी। अतः सरकार के 24 मई 2015 के आदेश से सभी जैन समाज के लोगों को स्वप्रकाशित प्रमाण पत्र मान्य करने की घोषणा की गई है। यह प्रशंसनीय है। उन्होंने स्कूलों में छात्रवृत्ति समय पर व सभी को दिलाए जाने का आधासन दिया।

समन्वयक एवम् दैनिक विश्व परिवार झांसी के सम्पादक प्रवीण कुमार जैन ने कहा कि शिक्षण संस्थाओं को अल्पसंख्यक का दर्जा उ.प्र. में हाईकोर्ट के एन.ओ.सी. के निर्णय को लेकर स्थित है अतः संस्थाओं का

माइनेरिटी स्टेट्स आयोग द्वारा सीधे प्रदान करना चाहिये।

समन्वयक श्री शैलेन्द्र जैन (अलूगढ़) ने शिक्षा विभाग के अधिकारियों द्वारा अल्पसंख्यकों को योजनाओं का लाभ न पहुंचाने की शिकायत करते हुये कहा कि अल्पसंख्यकों को एकजुटता से परस्पर सहयोग करना होगा। वकाओं में म.प्र. संसद जैन, छत्तीसगढ़ से गुलाम रहमान खान, उ.प्र. से लिय्याकत अली, अभियेक जैन बड़ौत, गोवा से अभियेक सुलेमान, तारिह अली, राहुल जैन (राजनांद गांव) थामस बैंगलोर, प्रवीण जैन (नासिक), संजय जैन (दिल्ली), प्रदुम्न जैन (हरियाणा), सचिन जैन (गोवाहाटी), जफ़र अहमद खान (महाराष्ट्र), सुनीता मोहटा, अर्चना संचेती, निलिन्द यम्बुल, आदि ने सुझाव दिए व कार्य करने में आ रही समस्याओं से अवगत कराया। संचालन एवम् आभार ज्ञापन आयोग के अण्डर सेक्रेट्री विनय कुमार ने किया।

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 bureaucrats of various state governments. The tours and visits of the Hon'ble Chairman and Members of the Commission have helped in sensitising 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 Members to various places during the year 2015- 16 are as under:-

ShriZafar Agha, Hon'ble Member

Sl. No.	Date	Place of Visit
1.	1 st – 2 nd May, 2015	Pune, Maharashtra
2.	12 th -14 th May, 2015	Kerala
3.	12 th – 14 th June, 2015	Allahabad, Uttar Pradesh
4.	30 th July – 2 nd August, 2015	Tamil Nadu
5.	21 st – 23 rd August, 2015	Kerala via Tamil Nadu
6.	27 th – 28 th August, 2015	Maharashtra
7.	30 th October, 2015	Lucknow, Uttar Pradesh
8.	9 th – 10 th October, 2015	Telangana
9.	22 nd – 23 rd December, 2015	Nagpur, Maharashtra

10.	30 th December, 2015 – 1 st January, 2016	Kerala
11.	8 th – 9 th January, 2016	Kerala
12.	30 th January, 2016	Karnal, Haryana
13.	5 th – 7 th February, 2016	Vellore, Tamil Nadu
14.	25 th – 27 th February, 2016	Chandigarh
15.	18 th – 20 th March, 2016	Bengaluru, Karnataka

These are dealt in detail below:

Details of the tour undertaken by Hon'ble Member Shri Zafar Agha (NCMEI) to various places during the year 2015-16 are as under:-

Sl.No.	Place of Visit	Date
1	Kerala ➤ Thiruvananthapuram, ➤ Edappal, Malappuram. ➤ Malappuram, Kerala	12 th May -14 th May, 2015 21 st August – 23 rd August, 2015 30 th December, 2015 – 1 st January, 2016.
2	Tamil Nadu ➤ Chennai, Thiruchirappalli ➤ Vellore.	30 th July – 2 nd August, 2015 5 th February – 7 th February, 2016
3	Telangana ➤ Kareem Nagar ,Telangana	9 th October– 10 th October, 2015.
4	Uttar Pradesh ➤ Allahabad	12 th June – 14 th June, 2015.
5	Haryana ➤ Karnal	30 th January, 2016
6	Maharashtra ➤ Pune ➤ Maharashtra	1 st May – 2 nd May, 2015 22 nd December – 23 rd December, 2015

Kerala Programme No 1

Thiruvananthapuram, Kerala- 12th May,-14th May, 2015.

At the request of Minority Educational Association, Islamic Centre, Kozhikode, Hon'ble Member Shri Zafar Agha (NCMEI) attended a state level seminar on the topic of **“Empowerment of Minority Educational Institutions and the Rights of Minorities”** at Thiruvananthapuram, Kerala,

The function was presided over by the Hon'ble Chief Minister of Kerala.

- Hon'ble Member Shri Zafar Agha was the chief guest of the programme. During his speech, he appraised the stakeholders and other representatives of minority educational institutions about their educational rights enshrined in Art 30(11) of the constitution of India and how NCMEI is protecting their rights.
- Shri Ramesh Chennithala, Hon'ble Home Minister, Govt of Kerala, and Shri Kunhalikutty, Hon'ble Minister for Industries and Information Technology, Govt of Kerala addressed the seminar.
- The eminent personalities including ministers, bureaucrats, M.L.As and more than 500 representatives of minority educational institutions attended the seminar.
- On 13th May, 2015, he had a meeting and discussion regarding minorities educational issues with Shri Ramesh Chennithala, Hon'ble Home Minister, Govt of Kerala,
- On 14th May, 2015, he had a meeting and discussion regarding minorities educational institutions with Shri P.K. Abdu Rabb, Hon'ble Education Minister, Govt of Kerala.

Kerala Programme No 2

Edappal, Malappuram, Kerala – 21st August to 23rd August, 2015.

- Hon'ble Member Shri Zafar Agha (NCMEI) was invited as the chief guest by the management of Malabar Educational and Charitable Trust to address the seminar on the topic of **“Minority Education in India – Special focus on**

Kerala” on 22nd August, 2015.

- He addressed the seminar along with Mr. Rasheedali Shihab Thangal, Wakf Board Chairman, Kerala.
- Hon’ble Member highlighted the role of NCMEI in protecting minorities’ educational rights.
- Educational activists and honorable personalities in social and political field from different parts of Kerala attended the programme



Hon’ble Member addressing the seminar on Minority Education in India – Special focus on Kerala at Malabar Dental College, Edappal, Malappuram, Kerala on 22nd August, 2015

Kerala Programme No 3

Malappuram, Kerala- 31st December, 2015.

At the request of Darul Hidayah Education Trust, Hon’ble Member Shri Zafar Agha (NCMEI) attended the Darul Hidayah 30th anniversary celebrations on 31st December, 2015.

- Eminent personalities of Kerala, including Ministers, M.P.s, Bureaucrats, and M.L.A.s, participated in the programme.
- The seminar was inaugurated by Shri Abdul Wahab, Member of Parliament-Rajya Sabha.
- On the same day afternoon, a seminar regarding awareness about the benefits

of MSC for various representatives of minority educational institutions was conducted at Malabar College of Commerce & Science, Edappal, Malappuram. This seminar was meant as a platform to create awareness about the rights and benefits of minority educational institutions. The Hon'ble Member, Shri Zafar Agha, (NCMEI) was the chief guest at the programme.

Tamil Nadu Programme No 1

➤ ***Chennai, Thiruchirappally- Tamil Nadu 30th July – 2nd August, 2015.***

From 30th July, 2015 to 2nd August, 2015, Hon'ble Member Shri Zafar Agha (NCMEI) was invited to attend the following programmes in Tamil Nadu:-

- On 31st July, 2015, Hon'ble Member attended as chief guest a seminar on awareness programme regarding educational schemes of Govt of India for the Minorities. The seminar was organized by the Indian Muslim Educational Cultural & Charitable Trust, Punjab Association Adarsh Group of Educational Institution and Anglican Communion for Minority Affairs Chennai.
- Hon'ble Member delivered the keynote address at the programme. It was also attended by Dr. Balaji, Director, State Resource Centre, Ministry of HRD, Shri P. Ravi, Regional Director, National Institute of Opening Schooling, Ministry of HRD, Govt of India.
- Hon'ble Member also had a discussion with Shri R. Kaithamalai, Director, Advance Training Institute Ministry of Skill Development & Entrepreneurship, Directorate General of Training, Govt of India.
- Hon'ble Member had a discussion with Most Rev. Dr. A. John Sathiyakumar, Chairman, Anglican Communion for Minority Affairs on minority issues.
- On 1st August, 2015 Hon'ble Member delivered a Keynote in a seminar at Sangeetha Convention Centre, Rasi hall, Thiruchirappalli, Tamil Nadu.
- The programme was organized by the Confederation of Minority Educational Institutions in Tamil Nadu, Woraityurand Thiruchirappalli.
- Several institutions from the state participated in the event. An interactive session was also held for them.





Shri Zafar Agha, Hon'ble Member of the National Commission for Minority Educational Institutions, addressing a seminar on Educational Rights of Minorities in India at Thiruchirappalli on 1st August, 2015.



Tamil Nadu Programme No 2

➤ ***Chennai- Vellore – Tamil Naduduring 5th February – 7th February, 2016.***

From 5th February to 7th February, 2016, Hon’ble Member attended the following important programmes:-

- On 6th February, he addressed the golden jubilee celebration of C.Abdul Hakeem College, Melvisharam, Tamil Nadu.
- Hon’ble Member was the chief guest of the function.
- Hon’ble Member delivered a keynote address along with Shri Akhtarul Wasey of National Commissioner for Linguistic Minorities in India. The programme was attended by the eminent personalities of the area.
- On 7th February, 2016, he inaugurated a seminar on the topic of ‘Empowerment of Minorities & the Awareness of Minority Rights’ at the New College, Chennai.



C.Abdul Hakeem College, Golden Jubilee Function- 6th February, 2015



Hon'ble Member Shri Zafar Agha interacting with representatives of minority educational Institutions at Vellore.Tamil Nadu.

Telangana Programme No.1

➤ ***Karimnagar, Telangana during 9th October -10th October, 2015***

A seminar regarding awareness about the rights and benefits of NCMEI for various educational institutions was conducted at Sri Geetha Conference Hall, Telangana Chowk, Karim Nagar, Telangana, on 10th October, 2015. This seminar was meant to create awareness about the educational rights and benefits of minorities. This programme was inaugurated by the Hon'ble Member.



Shri Zafar Agha, Hon'ble Member, NCMEI during the Seminar at Karimnagar, Telangana on 10th October, 2015.

Uttar Pradesh Programme No1

➤ *Allahabad, Uttar Pradesh 12th June-14th June,2015*

Hon'ble member was on a visit to Allahabad from 12th to 14th June, 2015 where he addressed a seminar on the topic of "Minorities Education & the NCMEI Role". The seminar was organized by the Doaba Vikas Avam Utthan Samiti, Kaushambi, Uttar Pradesh. The meeting was attended by stakeholders of various educational institutions.

Haryana Programme No.1

➤ *Karnal, Haryana on 30th January,2016*

On 30th January, 2016, Hon'ble Member visited Karnal to attend Haryana State Level Ghatka competition at Guru Harikrishnan Public School, Karnal.

Maharashtra Programme No.1

➤ *Pune, Maharashtra 1st May – 2nd May,2015*

Hon'ble Member along with Shri Sandeep Jain, Deputy Secretary, NCMEI and Shri Naveen Kumar, Under Secretary, NCMEI participated and addressed the minority awareness programme at Rasiklal M.Dhariwal Junior College, Pune. The programme was organized by the management of Shri Anandirith Charitable Trust, Pune. Honorable Smt. Jayashree Mukherjee, Principal Secretary, Minorities' Development Department, Govt. of Maharashtra, Shri Bhalchandra J. Gadekarm, Deputy Secretary, Minorities Development Department, Govt of Maharashtra also addressed the programme.

Hon'ble Member highlighted the following points during his keynote address:

- Guidelines formulated by the NCMEI regarding recognition, affiliation and grant of Minority Status Certificate.

- Rights of Minority Educational Institutions.
- Provisions of NCMEI Act and the functions of NCMEI.
- Powers of National Commission for Minority Educational Institutions.

Maharashtra Programme No. 2

➤ ***Nagpur, Maharashtra- 22nd December-23rd December, 2015.***

Hon'ble member Shri Zafar Agha visited Nagpur, Maharashtra during 22nd -23rd of December, 2015 where he delivered the keynote address at the Hislop College, Nagpur on the occasion of annual christmas functionof the college.

- Hon'ble Member also had a meeting with Archbishop Abraham Viruthukulangara of Nagpur Diocese.

Details of the tours undertaken by the Hon'ble Member Dr. Baltej Singh Mann to various places during the year 2015-16

Sl. No.	Date	Place of Visit
1.	28 th December, 2015	Chandigarh
2.	30 th January, 2016	Karnal
3.	5 th March, 2016	Uttar Pradesh
4.	2 nd – 3 rd March, 2016	Patiala
5.	11 th – 13 th March, 2016	Haryana & Punjab
6.	25 th – 27 th February, 2016	Chandigarh
7.	18 th – 20 th March, 2016	Bengaluru
8.	21 st – 23 rd March, 2016	Mysuru

These are detailed below:

S. No.	Date	Programme	Organizer	Reports
1	13-12-2015	Visit to Chandigarh : To take part in the interview of the candidates for the post of Controller of Examination, Central University of Himachal Pradesh University, Dharamshala	Central University of Himachal Pradesh, Dharamshala	Dr. Mann participated in the selection proceedings for the post of Controller of Examination. More than 15 candidates appeared for the interview.
2	16.12.2015	Visit to Patiala : National Seminar on issues and challenges before minorities in India at Punjabi University, Patiala	Punjabi University, Patiala	While addressing the seminar on 16.12.2015, Dr. Mann underlined the issues and challenges before minorities in India like lack of awareness and literacy, infrastructure problems and lack of employment opportunities.
3	18.12.2015	NCMEI's Foundation Day	NCMEI	While addressing the gathering Dr. Mann called upon the MEIs to admit more students belonging to weaker sections of the society.

4	17.01.2016	Visit to Chandigarh : Meeting with Hon'ble Governor	UT Admn. Chandigarh	During the meeting with Hon'ble Governor of Punjab & Haryana on 17.01.2016, Hon'ble Member Dr. Mann briefed the Hon'ble Governor about the status of MEIs in Punjab, Haryana, Himachal Pradesh and UT of Chandigarh. The Governor was kind to agree to inaugurate the proposed Regional Conference of NCMEI at Chandigarh on 26.02.2016.
5	14.02.2016 to 15.02.2016	All India Jain Minority Conference at New Delhi	NCMEI	While addressing the conference Dr. Mann called upon the Jain community to come forward to open more MEIs for the benefit of the Minority communities.
6	25.02.2016 to 27.02.2016	Visit to Chandigarh : To attend NCMEI Regional Conference, Chandigarh	UT Admn., Chandigarh	During the NCMEI Regional Conference at Chandigarh on 26.02.2016, Dr. Mann proposed a vote of thanks and addressed the press conference. During the interactive session Hon'ble Members replied to the questions raised by the representatives of various MEIs present at the conference regarding their rights and status of RTE.
7	02.03.2016 to 03.03.2016	Visit to Patiala : To deliver the convocation address at annual convocation 2016 at Khalsa College, Patiala	Khalsa College, Patiala	While delivering the convocation address at annual convocation 2016 at Khalsa College, Patiala, Dr. Mann exhorted the youth to empower themselves with skills so as to achieve success. He also emphasized on the inculcation of value based education in the country.

8	05.03.2016	Visit to Ghaziabad : To attend Two days National Seminar (ICSSR Sponsored) on “Impact of FDI on Socio-Economic Transformation in India – Problems and Prospects” at Shambhu Dayal (PG) College, Ghaziabad	Shambhu Dayal (PG) College, Ghaziabad	While delivering the key note address at Shambhu Dayal (PG) College, Ghaziabad. Dr. Mann underlined the impact of FDI on social transformation in India.
9	11.03.2016	1. Visit to Guru Nanak Khalsa College Karnal to attend National Seminar on Make in India & Economic Development 2. Visit to Guru Tegh Bahadur Sr. Sec. School, Cheeka, Kaithal (Haryana)	1. Guru Nanak Khalsa College Karnal 2. Guru Tegh Bahadur Sr. School, Cheeka, Kaithal (Haryana)	1. While addressing the seminar delegates, Dr. Mann said that Make in India programme will give a push to Economic Development of the Country. 2. Dr. Mann visited GTB School, Cheeka and held a meeting with the Management Committee to start vocational classes. He also addressed a seminar organized by Itihas Sankalan Samittee, Haryana.
10	13.03.2016	Visit to Patiala : Recording of interview with All India Radio, Patiala	All India Radio, Patiala	An interview was recorded with All India Radio to generate awareness about the fundamental rights of minorities to establish and administer their MEIs.
11	18.03.2016 to 23.03.2016	Visit to Bengaluru and Mysore : To attend Regional Conference, Bengaluru and visit to Central Institute of Indian Languages (CIIL), Mysore	Govt. of Karnataka	During the one day conference at Bengaluru, Dr. Mann gave a clarion call to MEIs to preserve their culture by establishing their MEIs. During one day visit to CIIL, Mysore, Dr. Mann addressed the faculty and studies the problems of linguistic minority languages in the region.

Details of the tours undertaken by Hon'ble Member Dr. Naheed Abidi (NCMEI) to various places during the year 2015-16 are as under:-

Sl. No.	Date	Place of Visit
1.	17 th December, 2015	Varanasi
2.	25 th – 27 th February, 2016	Chandigarh
3.	18 th – 28 th March, 2016	Varanasi & Lucknow Ms. Anita C. Mehshram, Director, Cultural Directorate, Govt. of Uttar Pradesh

CHAPTER 7 – PETITIONS AND COMPLAINTS RECEIVED DURING THE YEAR

Right from its inception the Commission has been registering cases. During the year under report, the Commission registered 1773 petitions and disposed of 1776 cases. The Commission from 1st April, 2015 to 31st March, 2016 issued 1020 Minority Status Certificate to Minority Educational Institutions.

The Commission registered cases on various issues such as: non-issue of No Objection Certificate (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, non-availability of books in Urdu on all subjects for students of Urdu schools, non-appointment of Urdu knowing teachers, madarsa teachers not being paid at par with minority school teachers, madarsa employees not being paid adequately, non-release of grants to madarsas, non-payment of retirement benefits to teachers and non-teaching staff of minority schools, non extension of SarvaShikshaAbhiyan 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:

F. NO. 191 OF 2016

Subject: Grant of NOC

In the matter of:

Delhi Global Institute of Management,
Tigaon Road, Jasana, Faridabad, Haryana.

... petitioner

Versus

The Financial Commissioner & Principal Secretary,
Department of Technical Education (PSTE),
Government of Haryana,
Room No. 39, 7th Floor,
Haryana Civil Secretariat,
Chandigarh, Haryana.

... Respondent

ORDER

(Delivered on the 07th day of March, 2016)

Zafar Agha

Challenge in this petition, filed under Section 12 A of the National Commission for Minority Educational Institutions Act (for short the Act) is to the order dated 23.11.2015 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 8.9.2015 granted by the Commission in Case No. 537 of 2015. It is also alleged that the impugned order dated 23.11.2015, being violative of Section 10-A of the Act, is illegal and ineffective.

Despite service of notice, there is no appearance on behalf of the respondent. Hence, the case is proceeded ex-parte.

By the order dated 23.11.2015 the respondent has rejected petitioner's application 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.

The point for consideration in this petition is: whether the impugned order being violative of Section 10A of the Act is invalid and ineffective? The impugned order dated 23.11.2015 is as under:

From

The Director General
Technical Education Department
Bays No. 7-12, Sector – 4,
Haryana (Panchkula)

To

The Chairman,
Delhi Global Institute of Management,
Jasana, Faridabad-121 101.

Memo No. 1312 Colleges Dated: 23/11/2015

Subject: Request for grant of No objection Certificate affiliation from Guru Gobind Singh Indraprastha University, Dwarka, New Delhi.

Kindly refer the letter DGIM/2015/1006-08 dated 28.10.2015 subject noted above.

In this regard, I have been directed to convey that the GGSIPU, New Delhi is situated in the other State i.e. Delhi, which does not cover in the jurisdiction of the State of Haryana, so the institute cannot be allowed to affiliate with the outside university i.e. Guru Gobind Singh Indraprastha University, New Delhi.

Additional Director (Colleges)
For Director General Technical Education,
Haryana (Panchkula)”

(Emphasis added)

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, the appellant's request for grant of NOC was disallowed. No reply has been received on behalf of the respondent. Moreover, no such policy decision was also placed before the Commission. This circumstance to a very great extent probalises 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 seeks affiliation to any university of its choice subject to such affiliation being permissible within the Act under which the said university is established. Section 10A 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 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 institution 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.

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.

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 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 added)

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 Faridabad 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 petition is allowed under Section 12-A of the Act and the impugned order dated 23.11.2015 is hereby set aside. A No Objection Certificate is hereby granted to the appellant institution 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 institution by this Commission.

F. NO. 820 OF 2015

Present: Mr. Ambar Qamaruddin, Advocate for the petitioner.
Mrs. Mithlesh Mohan for Respondent No. 1.
Dr. Jyoti Kaushal, Medical Officer for Respondent No. 2.

Arguments are heard.

The petitioner in this petition has sought the NCMEI direction under Section 11 of the NCMEI Act in order to protect its fundamental rights under Article 30 of the Constitution of India guaranteeing it the freedom to establish and administer educational institutions of his own choice.

The petitioner claims that the petitioner enjoys all the legal parameters of a minority educational institution including the minority status granted by this Commission. The petitioner further claimed that on 11.8.2014 the petitioner University had applied to the Director of Medical Education & Research, Haryana for issuing Essentiality Certificate (No Objection Certificate) for the establishment of Al-Falah School of Medical Science and Research Centre at Village Dhauj, Faridabad, Haryana.

The petitioner moved an application on 26.8.2014 to the Secretary, Health, Government of India, New Delhi, seeking permission to establish Al-Falah School of Medical Science & Research Centre at Village Dhauj, Faridabad, Haryana. It is claimed that the Director General of Medical Education & Research, Haryana, constituted a Committee to inspect Al-Falah School of Medical Science & Research Centre at Village Dhauj, Haryana.

The inspection committee visited Al-Falah School of Medical Science & Research Centre on 16.9.2014 and inspected the Hospital.

The petitioner further claimed that the Ministry of Health and Family Welfare, Government of India, returned the proposal of the petitioner institution on the ground that it did not include Essentiality Certificate which was a necessary requirement for the grant of permission to establish a medical institute.

It is alleged that representatives of Al-Falah School of Medical Science & Research Centre repeatedly met concerned officers to expedite action in the matter but no Essentiality Certificate was issued to the petitioner institution. They also wrote a letter on 27.3.2015 to Secretary, Medical Education, Government of Haryana requesting to issue Essentiality Certificate to them. (The petitioner has filed proof of all the communication mentioned above.)

In view of the above mentioned facts, the petitioner has sought the NCMEI intervention under Section 11 of the NCMEI Act requesting the Commission to give direction to the respondents to issue Essentiality Certificate within four weeks of time.

The respondents in their respective written replies have not contested the facts stated by the petitioner in the petition. Respondent No. 1, Mrs. Mithlesh Mohan, Deputy Secretary Medical Education and Research Department, Haryana, in her written reply admits that the “proposal to grant NOC/ Essentiality Certificate to Al-Falah School of Medical Science & Research Centre to start a medical college in the name of Al-Falah School of Medical Science & Research Centre at Village Dhauj, Faridabad, is under consideration with the Government and the decision will be conveyed”.

On behalf of Respondent No. 2, Dr. Jyoti Kaushal, Medical Officer, Director General, Medical Education and Research, Haryana, Panchkula, in her written reply admits that “on 25.3.2015 the inspection report dated 22.9.2014 was sent to the Principal Secretary to the Government of Haryana, Medical Education and Research Department for taking further necessary action”.

The Respondent No. 2 further clarified that they were not entitled to issue any essentiality certificate. “It is rather for Principal Secretary to Government of Haryana, Medical Education and Research Department, Chandigarh to issue NOC/ Essentiality Certificate to a new medical college”, respondent No. 2 clarifies.

On the basis of the stand taken by the rival parties, following issues arise for consideration:

- (i) Whether the NCMEI is entitled to intervene in the matter?

- (ii) Whether the inaction on the part of the concerned authorities to issue Essentiality Certificate is violative of Article 30 (1) of the Constitution?

Issue No. 1

Section 11 of the NCMEI Act in Clause B clearly states that the Commission “shall 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”.

Section 11, Clause B, of the NCMEI Act thus clearly empowers the Commission to intervene in this matter and issue direction to the concerned authorities in this regard.

Issue No. 2

It is evident from the written replies of the Respondent No. 1 and Respondent No. 2 that they do not contest on any ground the right of the petitioner to establish a minority medical institution.

Respondent No. 1 even concedes that proposal of the Al-Falah Trust to start a medical college at Village Dhauj, Distt Faridabad is “under consideration with the Government of Haryana and the decision will be conveyed”.

Respondent No. 2 admits that the inspection report of experts in the matter has already been sent on 22.9.2014 to the Principal Secretary, Government of Haryana, Medical Education and Research Department for necessary action. A reminder dated 28.5.2013 from the respondent No. 2 in this regard was again sent to the same authority.

The above facts clearly establish that expert report is pending with the Principal Secretary to the Government of Haryana, Medical Education and Research Department since 22.9.2014. Even respondent No. 1 does not deny this fact. Yet no action has been taken in this regard till date.

The unnecessary and unexplained delay on the part of the Secretary, Medical Education and Research Department, Government of Haryana, to take any action on the basis of expert committee report clearly hampers the right of a minority guaranteed under Article 30 (1) of the Constitution of India, to establish and administer educational institutions of its choice. The right of a minority to establish an educational institution cannot be kept under suspension.

Taking view of the above facts the Commission directs the Principal Secretary to Government of Haryana, Medical Education and Research Department, to immediately take necessary action on the basis of expert committee report and issue NOC/ Essentiality Certificate to the petitioner for the establishment of Al-Falah School of Medical Science & Research Centre at Village Dhauj, Fatehpur, Taga Road, Faridabad, Haryana within four weeks from the service of this order.

The petition is disposed off accordingly.

F. No. 1329 of 2015

Arguments are heard.

The petitioner, a National Commission for Minority Educational Institutions (NCMEI) recognized minority educational institution (minority status certificate dated 27.7.2011 granted in Case No. 1120 of 2011) within the meaning of Section 2 (g) of the NCMEI Act, has prayed for the protection of its fundamental right “to establish and administer educational institutions of their choice” guaranteed under Article 30 (1) of the Constitution of India and also to increase intake in its D.Ed/ D.Ed./D.El.Ed. programmes.

Learned counsel for the petitioner submitted that Hiralal Jain Welfare and Educational Society, Baghpat Road, Khewara, Sonapat, Haryana, on behalf of the Kirorimal College of Education, timely submitted an application for grant of NOC for 4 years Integrated BA, B.Ed/ B.Sc. B.Ed programme from NCTE to the Respondent No. 1 (The Registrar, Maharshi Dayanand University, Rohtak) and Respondent No. 2 (The Financial Commissioner and Principal Secretary, Govt. of Haryana, Education Department, Chandigarh).

The petitioner also sought NOC for its institution from Respondent No. 3 (The Financial Commissioner and Principal Secretary, Govt. of Haryana, School Education Department, Chandigarh) and Respondent No. 4 (The Director, SCERT, Gurgaon, Haryana) for the increase of 100 seats in D.Ed./ D.Ed./D.El.Ed. programme.

The petitioner was denied NOC in both the cases.

Since two separate issues dealing with separate respondents are involved in this petition, two separate judgments are being pronounced.

ISSUE NO. 1

Grant of NOC for 4 years integrated B.A., B.Ed/ B.Sc. B.Ed. Programme from NCTE on behalf of Respondent No. 1 & 2.

The petitioner under Section 10 (3) of the NCMEI Act, has sought the NCMEI (Commission) intervention to issue NOC or direct the concerned parties to issue NOC at their earliest which was denied by Respondent No. 1 & 2.

Learned counsel for the Respondent No. 1, through its written reply submitted by its learned counsel, pointed out that “the colleges which were found eligible had been issued NOC. However, as per recommendations of the University Committee constituted to frame the policy on teachers training colleges in its report dated 29.5.2015 stated that ‘the proposal for 4 years integrated course shall not be considered until and unless the Higher Education Department, Haryana issues NOC.’ Respondent No. 1 also pointed out that the “NOC for starting B.Ed and M.Ed. (3 years) integrated course have already been issued to the petitioner’s college conditionally subject to the clarifications from the State Government”.

Respondent No. 1 has also annexed a copy of “the proceedings of the meeting of the University Committee constituted by the Vice Chancellor to consider the applications received for the issuance of No Objection Certificate to the new/ existing institutions for running teacher training programmes held on 29.5.2015” (AnnexureR/1).

The Committee report in its Point (ii) categorically mentions that “the existing institutions applying for additional courses, the Committee finds that NOC be issued”.

Besides, Respondent No. 2, through its written reply submitted by their learned counsel, pointed out that “it is evident that the affiliating university is competent to grant NOC at their level where the State Government does not interfere. The role of the State Government starts when NCTE seeks comments from the State Government...”.

Since the respondent No. 2, i.e., the State Government, has very categorically stated that there is no role of the State Government in this matter and the affiliating university is competent to grant NOC, it is evident that the Respondent No. 1 has to act on its own at the request of the petitioner institution.

Therefore, the view taken by the respondent No. 1 that the Committee in its report has stated that the four year integrated course shall not be considered until and unless Higher Education Department, Haryana, issues NoC, does not apply to the petitioner institution which is a minority educational institution enjoying the right ‘to establish and administer an educational institution of its choice’ under Article 30 (1) of the Constitution of India.

We are, therefore, of the view that NOC to the petitioner institution cannot be denied. It may also be pointed out here that the minority educational institutions enjoy the Constitutional right guaranteed to “establish and administer colleges of their choice” under Article 30 (1) of the Constitution. It will be, therefore, violative of the right of a minority educational institution to deny a course of its choice on the ground that it has not obtained NOC from the Higher Education Department, Haryana, while the Higher Education Department, Haryana has already categorically stated that it has “no role in this matter”.

ORDER

Respondent No. 1, is directed to issue NOC to the petitioner institution in the meeting scheduled to be held on 29.11.2015. Since the petitioner institution is

a recognised minority educational institution already enjoying the minority educational rights guaranteed under Article 30(1) of the Constitution, denying NOC to the petitioner institution to run a course of its choice may be treated as the violation of the fundamental right of a minority educational institution as guaranteed in the Constitution.

ISSUE NO. 2

Grant of NOC from Respondent No. 3 & 4 for increase of intake in D.Ed/ D.El.Ed programme.

The petitioner institution, a NCMEI recognized minority educational institution has submitted that the NCTE invited online applications upto 31st May 2015 as per NCTE policy regulations framed in 2014. Learned counsel for the petitioner points out that NCTE guidelines clearly states that no restrictions will apply on the minority educational institutions established under Article 30 (1) of the Constitution.

However, Respondent No. 3 (The Financial Commissioner and Principal Secretary, Govt. of Haryana, School Education Department, Chandigarh) and Respondent No. 4 (The Director, SCERT, Haryana) through their joint written reply submitted by their learned counsel, pointed out that “the Regional Director, NRC-NCTE, Jaipur, vide his office letter No. NRC/HR/2015/86481 dated 6.2.2015, decided that recommendations of the State Government be obtained for processing of applications received from the minority institutions for the academic session 2013-14 for B.Ed & D.El.Ed course.” Respondent No. 3 & 4, therefore, claim that before “granting recognition for additional 50 students in the petitioner college, the recommendation of the State Government is mandatory.” It is on this ground that the respondent refused to grant NOC to the petitioner institution.

Learned counsel for the petitioner, however, submitted a copy of the Public Notice dated 27th February 2015, issued by the NCTE, which reads: “The NCTE has decided not to accept applications for recognition of teacher training institutions/ programmes including additional intake/ increase in seats in existing recognized programmes, additional programmes for the academic session 2016-17 in the following states/ UTs for the programme (s) specified against each: Haryana (D.El.Ed.)”.

However, the said public notice dated 27.2.2015 in its point No. 3 categorically states: "The above restrictions will not apply in case of Minority Educational Institutions established under Article 30 of the Constitution."

Learned counsel for the petitioner also submitted a copy of the minutes of 241st meeting of the NRC, Jaipur held on 3rd to 7th August 2015. The minutes of this meeting in response to the NCTE query "Consideration of applications received for 2016-17 but the request received from the State Govts. for not accepting the applications after (NCTE) Public notice dated 27th February 2015" (quoted earlier), responded: "The Committee noted the same. The decision shall be taken as per the policy framed by the NCTE as per the NCTE regulations, 2014."

Learned counsel for the Respondent No. 5 (NCTE) admits that the NCTE Public Notice dated 27.2.2015 is a public document and its content are correct to the best of his knowledge. He also confirmed that the said notice was issued by the NCTE.

It is an obvious fact that the petitioner institution is a recognized minority educational institution under Article 30 of the Constitution (minority status certificate dated 27.7.2011 granted in Case No. 1120 of 2011). It, therefore, inherently enjoys the right to establish, administer and run courses of its choice guaranteed under Article 30. The Respondent No. 3, however, takes the plea that the "Regional Director, NRC-NCTE, Jaipur vide his letter No. NRC/HR/2015/86481 dated 6.2.2015 decided that the recommendations of the State Government (in the case Govt. of Haryana) be obtained from processing of applications received from the minority institutions for the academic session 2013-14 for B.Ed. & D.El.Ed. courses. It also claims that the same policy has been extended to the academic session 2014-15 and 2016-17.

It may be pointed out here that the NCTE in its Public Notice dated 27th February 2015 has categorically exempted minority educational institutions from any such "restrictions". It may also be noted that the NCTE public notice dated 27.2.2015 was the original NCTE policy decision after which the NRC-NCTE, Jaipur issued the order No. NRC/HR/2015/86481 dated 6.2.2015. This order suppressed its own Committee

recommendation that the “decision shall be taken as per the NCTE regulations 2014”. The NCTE regulations 2014 (quoted in its public notice dated 27.2.2015) had already exempted minority educational institutions from any kind of restrictions. We, therefore, overrule the objections raised by the Respondent No. 3 in granting additional seats to the petitioner institution for B.Ed. & D.El.Ed. courses.

ORDER#

In the light of the above facts, we strongly direct Respondent No. 3 & 4 to immediately grant NOC to the petitioner institution to increase the intake of 100 seats D.Ed./D.El.Ed programme. Since the petitioner institution is a recognised minority educational institution under Article 30 (1) of the Constitution of India, any delay in granting NOC to the petitioner institution may be taken as the violation of Article 30(1) of the Constitution.

Copy of the order be sent to the parties. Dasti as well.

F. NO. 2031 OF 2013

Present: Mr. Jose Abraham, Advocate for the petitioner.
None for the respondent.

Certain documents have been received from the petitioner. Arguments are heard.

By this petition, the petitioner, a minority educational institution covered under Article 30(1) of the Constitution, seeks a declaration in terms of Sub-Section (3) of Section 10 of the National Commission for Minority Educational Institutions Act (for short the ‘Act’) that the competent authority has deemed to have granted NOC to the petitioner institution for it’s affiliation with the ICSE. Indisputably, the petitioner institution is a minority educational institution covered under Article 30(1) of the Constitution. It is pleaded that on 07.01.2012, the petitioner had applied to the respondent for grant of NOC for it’s affiliation with the ICSE and even after expiry of the statutory period of 90 days the competent authority did not pass any order thereon. That being so, the petitioner is entitled to invoke the deeming provisions of Sub-Section (3) of Section 10 of the Act.

Mr. A. Gerard Phingnora Raj, Correspondent of the Christ International School, Door No. 1626, R.S. No. 193/1, Christ Bhawan, First Street, Medical College Road, Rahuman Nagar, Latchathoppu Village, Thanjavur, T.N., has filed his affidavit in support of the averments made in the petition. Consequently, we have no option but to act upon the affidavit of Mr. A. Gerard Phingnora Raj. Relying upon the affidavit of Mr. A. Gerard Phingnora Raj, we find and hold that on 07.01.2012 the petitioner institution had applied to the competent authority of the State Government for grant of NOC for its affiliation with the ICSE and even after expiry of the statutory period of 90 days, the competent authority did not pass any order thereon. That being so, the petitioner institution is entitled to invoke Sub-Section (3) of Section 10 of the NCMEI Act, which reads as under: -

“(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.”

Having regards to the facts and circumstances of the case, we find and hold that since the respondent has not passed any order on the petitioner’s application dated 07.01.2012 for grant of NOC for its affiliation with the ICSE even after expiry of the statutory period of 90 days, we have no option but to declare that the competent authority is deemed to have granted the NOC as sought by the petitioner institution for its affiliation with the ICSE. A certificate be issued accordingly and the ICSE is directed to act upon the said certificate issued by the Commission in terms of Sub-Section (3) of Section 10 of the NCMEI Act for processing the petitioner’s application for grant of affiliation with the ICSE.

F. NO. 303 OF 2016

Present: Mr. I.P. Inamdar for the petitioner.

None for the respondent.

Mr. I.P. Inamdar filed the affidavit of Mr. Shaikh Abdul Razzak to prove that the notices were served on the respondents. Despite service of notices, there is no appearance on behalf of respondents. Hence the case is proceeded ex-parte against them.

Arguments are heard.

By this petition, the petitioner seeks a direction to the respondent university to declare the result of one student from the foreign country, namely, Miss Gheisar Rouya Mohammad. Mr. I.P. Inamdar submitted that the respondent no. 1 has no role to play in the matter and this is a matter between the petitioner and respondent university.

Indisputably the petitioner no. 1 M.A. Rangoonwala College of Dental Sciences & Research Centre, Pune, is a minority educational institution covered under Article 30(1) of the Constitution. It is well settled that the employment of expressions “right to establish and administer” and “educational institutions of their choice” in Article 30(1) gives the right a very wide amplitude. It has been held by the Supreme Court in T.M.A. Pai Foundation vs. State of Karnataka (2002) 8 SCC 481 that so far as the minority educational institutions are concerned, to admit students is one of the components of the right to establish and administer an institution. Their lordships have further held that the expression of their choice occurring in Article 30(1) include not only the choice of the institution to be established and administered by the minorities, but also the choice of the students who have to be imparted in such institution [Frank Anthony FSE Association vs. Union of India AIR 1987 S.C. 311]. Needless to add here that the language of Article 30(1) of the Constitution is wide and must receive full meaning. We are dealing with protection of minorities and any attempt to whittle down the protection cannot be allowed. It is the duty of this Commission to be watchful for the educational rights of the minorities guaranteed under Article 30(1) of the Constitution against any

stealthy encroachment into these rights. It is relevant to mention here that it has been held by the Supreme Court in the case of Islamic Academy of Education vs. State of Karnataka (2003) 6 SCC 697 that the role of the Committee (respondent no. 1) is limited to ensuring fairness and transparency in the C.E.T. conducted by the managers of the professional colleges of the minorities. That being so, the respondent Committee cannot travel beyond the jurisdiction assigned to it by the aforesaid judgment. On a careful reading of the para no. 131 of the judgment rendered by the Supreme Court in the case of P.A. Inamdar vs. State of Maharashtra (Supra) it becomes clear that the Committee (respondent no. 1) has been invested with the power to prevent mis-utilisation of the NRI Quota. This is not the case here. Moreover, the said student does not fall within the category of NRI. On the contrary, the said student is from a foreign country. That being so, the respondent no. 1 has no power to clear the names for examinations. This is the function of the Government of India and respondent no. 1 cannot usurp powers of the Government of India. It needs to be highlighted that the name of said student was cleared by the Government of India, Ministry of Health and Family Welfare, Vide Memo dated 12.05.2014. That being so, there was absolutely no jurisdiction for the respondent university for withholding examination result of the said student.

Having regards to the facts and circumstances we have no option but to hold that the impugned action of the respondent university in withholding the result of the aforesaid student without just and sufficient grounds is violative of the educational rights of the minorities guaranteed under Article 30(1) of the Constitution. Consequently, we direct the respondent university to declare with immediate effect the result of the aforesaid student of the foreign country.

F. NO. 304 OF 2016

Present: Mr. I.P. Inamdar for the petitioner.

None for the respondent.

Mr. I.P. Inamdar filed the affidavit of Mr. Shaikh Abdul Razzak to prove that the notices were served on the respondents. Despite service of notices, there is no appearance on behalf of respondents. Hence the case is proceeded ex-parte against them.

Arguments are heard.

By this petition, the petitioner seeks a direction to the respondent university to declare the result of one student from the foreign country, namely, Miss Almarri Alanoud Nasser Hamad Mohd. Mr. I.P. Inamdar submitted that the respondent no. 1 has no role to play in the matter and this is a matter between the petitioner and respondent university.

Indisputably the petitioner no. 1 M.A. Rangoonwala College of Dental Sciences & Research Centre, Pune, is a minority educational institution covered under Article 30(1) of the Constitution. It is well settled that the employment of expressions “right to establish and administer” and “educational institutions of their choice” in Article 30(1) gives the right a very wide amplitude. It has been held by the Supreme Court in T.M.A. Pai Foundation vs. State of Karnataka (2002) 8 SCC 481 that so far as the minority educational institutions are concerned to admit students is one of the components of the right to establish and administer an institution. Their lordships have further held that the expression of their choice occurring in Article 30(1) include not only the choice of the institution to be established and administered by the minorities, but also the choice of the students who have to be imparted in such institution [Frank Anthony FSE Association vs. Union of India AIR 1987 S.C. 311]. Needless to add here that the language of Article 30(1) of the Constitution is wide and must receive full meaning. We are dealing with protection of minorities and any attempt to whittle down the protection can not be allowed. It is the duty of this Commission to be watchful for the educational rights of the minorities guaranteed under Article 30(1) of the Constitution against any stealthy encroachment into these rights. It is relevant to mention here that it has been held by the Supreme Court in the case of Islamic Academy of Education vs. State of Karnataka (2003) 6 SCC 697 that the role of the Committee (respondent no. 1) is limited to ensuring fairness and transparency in the C.E.T. conducted by the managers of the professional colleges of the minorities. That being so, the respondent Committee can not travel beyond the jurisdiction assigned to it by the aforesaid judgment. On a careful reading of the para no. 131 of the judgment rendered by the Supreme Court in the case of P.A. Inamdar vs. State of Maharashtra (Supra) it becomes clear that the Committee (respondent no. 1) has been invested with the power to prevent mis-utilisation of the

NRI Quota. This is not the case here. Moreover, the said student does not fall within the category of NRI. On the contrary, the said student is from a foreign country. That being so, the respondent no. 1 has no power to clear the names for examinations. This is the function of the Government of India and respondent no. 1 cannot usurp powers of the Government of India. It needs to be highlighted that the name of said student was cleared by the Government of India, Ministry of Health and Family Welfare, Vide Memo dated 12.05.2014. That being so, there was absolutely no jurisdiction for the respondent university for withholding examination result of the said student.

Having regards to the facts and circumstances we have no option but to hold that the impugned action of the respondent university in withholding the result of the aforesaid student without just and sufficient grounds is violative of the educational rights of the minorities guaranteed under Article 30(1) of the Constitution. Consequently, we direct the respondent university to declare with immediate effect the result of the aforesaid student of the foreign country.

F. NO. 305 OF 2016

Present: Mr. I.P. Inamdar for the petitioner.

None for the respondent.

Mr. I.P. Inamdar filed the affidavit of Mr. Shaikh Abdul Razzak to prove that the notices were served on the respondents. Despite service of notices, there is no appearance on behalf of respondents. Hence the case is proceeded ex-parte against them.

Arguments are heard.

By this petition, the petitioner seeks a direction to the respondent university to declare the result of one student from the foreign country, namely, Mr. Nadjmabadi Sina Mohammad Hadi. Mr. I.P. Inamdar submitted that the respondent no. 1 has no role to play in the matter and this is a matter between the petitioner and respondent university.

Indisputably the petitioner no. 1 M.A. Rangoonwala College of Dental Sciences & Research Centre, Pune, is a minority educational institution covered under Article 30(1) of the Constitution. It is well settled that the employment of expressions “right to establish and administer” and “educational institutions of their choice” in Article 30(1) gives the right a very wide amplitude. It has been held by the Supreme Court in T.M.A. Pai Foundation vs. State of Karnataka (2002) 8 SCC 481 that so far as the minority educational institutions are concerned to admit students is one of the components of the right to establish and administer an institution. Their lordships have further held that the expression of their choice occurring in Article 30(1) include not only the choice of the institution to be established and administered by the minorities, but also the choice of the students who have to be imparted in such institution [Frank Anthony FSE Association vs. Union of India AIR 1987 S.C. 311]. Needless to add here that the language of Article 30(1) of the Constitution is wide and must receive full meaning. We are dealing with protection of minorities and any attempt to whittle down the protection cannot be allowed. It is the duty of this Commission to be watchful for the educational rights of the minorities guaranteed under Article 30(1) of the Constitution against any stealthy encroachment into these rights. It is relevant to mention here that it has been held by the Supreme Court in the case of Islamic Academy of Education vs. State of Karnataka (2003) 6 SCC 697 that the role of the Committee (respondent no. 1) is limited to ensuring fairness and transparency in the C.E.T. conducted by the managers of the professional colleges of the minorities. That being so, the respondent Committee cannot travel beyond the jurisdiction assigned to it by the aforecited judgment. On a careful reading of the para no. 131 of the judgment rendered by the Supreme Court in the case of P.A. Inamdar vs. State of Maharashtra (Supra) it becomes clear that the Committee (respondent no. 1) has been invested with the power to prevent mis-utilisation of the NRI Quota. This is not the case here. Moreover, the said student does not fall within the category of NRI. On the contrary, the said student is from a foreign country. That being so, the respondent no. 1 has no power to clear the names for examinations. This is the function of the Government of India and respondent no. 1 cannot usurp powers of the Government of India. It needs to be highlighted that the name of said student was cleared by the Government of India, Ministry of Health and Family Welfare, vide Memo dated 12.05.2014. That being so, there was absolutely no

jurisdiction for the respondent university for withholding examination result of the said student.

Having regards to the facts and circumstances we have no option but to hold that the impugned action of the respondent university in withholding the result of the aforesaid student without just and sufficient grounds is violative of the educational rights of the minorities guaranteed under Article 30(1) of the Constitution. Consequently, we direct the respondent university to declare with immediate effect the result of the aforesaid student of the foreign country.

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:

File No.2898 of 2014

Subject: Converting temporary Minority Status Certificate to Permanent One

Petitioner: St. Mary's College of Engineering & Technology, Sy. No. 452, 453 & 570, Venkateswara Colony, IDA, Patancheru, Medak District, Andhra Pradesh - 502 319

Respondent: Principal Secretary, Minorities Welfare Department, Government of Andhra Pradesh

Present: Mr. K. V. K. Rao for the petitioner

None for the respondent.

Vide order dated 9.9.2015, the case was fixed for hearing on 21.3.2016. Mr. K.V.K. Rao has filed an application for taking up the case today. For the reasons stated in the application, it is allowed and the case is taken up today. The date of 21.3.2016 fixed in the matter is hereby cancelled.

The petitioner has produced the original memo No. 7738/Estt.-II/A2/2014-2 dated 11.11.2014 issued by the Minorities Welfare (Estt.-II) Department, Government of Telangana granting temporary minority status certificate to the petitioner institution for the academic year 2014-15, which after due verification was returned to him. He has submitted that this temporary minority status certificate be converted into a permanent one. In our considered opinion the said submission of the petitioner merits acceptance.

In N. Ammad vs. Emjay High School (1988) 6 SCC 674 the Supreme Court has held that a minority educational institution continues to be so whether the Government declares it as such or not. When the Government declares an educational institution as a minority institution, it merely recognizes a factual position that the institution was established and is being administered by a minority community. The declaration is merely an open acceptance of the legal character of the institution which must necessarily have existed antecedent to such declaration.

The issue as to whether the minority status granted to institutions were bound to be renewed periodically had already been considered 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. It has been held that a 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 passing the order of conferral of 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.”

(emphasis supplied)

Thus, the minority status once granted need not to be renewed periodically. Once the Government is satisfied and has granted the declaration, the same would hold good permanently.

Relying on the afore cited judgment of the Madras High Court, we find and hold that the petitioner institution 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.

File No2899 of 2014

**Subject: Converting temporary Minority Status Certificate to Permanent
 One**

Petitioner: St. Mary's Pharmacy College, Near Ramoji Film City, Behind mount Opera Deshukhi Village, Pochampally Mandal, Nalgonda District, & Batasingaram (V), Hayatnagar (M), Ranga Reddy District, Telangana

Respondent: Secretary to Government (FAC), Minorities Welfare Department, Telangana Secretariat, Hyderabad

Present: **Mr. K. V. K. Rao for the petitioner**

None for the respondent.

Vide order dated 9.9.2015, the case was fixed for hearing on 21.3.2016. Mr. K.V.K. Rao has filed an application for taking up the case today. For the reasons stated in the application, it is allowed and the case is taken up today. The date of 21.3.2016 fixed in the matter is hereby cancelled.

The petitioner has produced the original memo No. 6858/Estt.-II/A2/2013 dated 13.8.2014 issued by the Minorities Welfare (Estt.-II) Department, Government of Telangana granting temporary minority status certificate to the petitioner institution for the academic year 2014-15, which after due verification was returned to him. He has submitted that this temporary minority status certificate be converted into a permanent one. In our considered opinion the said submission of the petitioner merits acceptance.

In N. Ammad vs. Emjay High School (1988) 6 SCC 674 the Supreme Court has held that a minority educational institution continues to be so whether the Government declares it as such or not. When the Government declares an educational institution as a minority institution, it merely recognizes a factual position that the institution was established and is being administered by a minority community. The declaration is merely an open acceptance of the legal character of the institution which must necessarily have existed antecedent to such declaration.

The issue as to whether the minority status granted to institutions were bound to be renewed periodically had already been considered 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. It has been held that a minority status cannot 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 passing the order of conferral of 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.”

(emphasis added)

Thus, the minority status once granted need not to be renewed periodically. Once the Government is satisfied and has granted the declaration, the same would hold good permanently.

Relying on the aforecited judgment of the Madras High Court, we find and hold that the petitioner institution 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.

File No. 418 of 2015

Subject: Converting temporary Minority Status Certificate to Permanent One

Petitioner: Ghulam Ahmed Elementary Teacher Education College, "Mount Pleasant", 8-2-249 to 267, Road # 3, Banjara Hills, Hyderabad, Telangana - 500 034

Respondent: Secretary to Government (FAC), Minorities Welfare Department, Telangana Secretariat, Hyderabad

Present: Ms. Arpana Saxena for the petitioner.

None for the respondent.

Ms. Arpana Saxena has produced the original Memo No. 1509/Wakf.II/A1/2009-1 dated 24.9.2009 granting temporary minority status certificate for the academic year 2009-10 and the original Memo No. 951Wakf-II/A2/2012-1 dated 26.3.2012 granting temporary minority status certificate for the academic years 2012-13 to 2014-15, which after due verifications were returned to her. She has submitted that this temporary minority status certificate be converted into a permanent one. In our considered opinion the said submission of the petitioner merits acceptance.

In *N. Ammad vs. Emjay High School* (1988) 6 SCC 674 the Supreme Court has held that a minority educational institution continues to be so whether the Government declares it as such or not. When the Government declares an educational institution as a minority institution, it merely recognises a factual position that the institution was established and is being administered by a minority community. The declaration is merely an open acceptance of the legal character of the institution which must necessarily have existed antecedent to such declaration.

The issue as to whether the minority status granted to institutions were bound to be renewed periodically had already been considered 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. It has been held that a minority status cannot 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 passing the order of conferral of 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.”

(emphasis added)

Thus, the minority status once granted need not to be renewed periodically. Once the Government is satisfied and has granted the declaration, the same would hold good permanently.

Relying on the aforesaid judgment of the Madras High Court, we find and hold that the petitioner institution 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.

File No.254 of 2015

Subject: Converting temporary Minority Status Certificate to Permanent One

Petitioner: Princess Durru Shehvar College of Education for Women, 17-8-467, Dabeerpura, Hyderabad, Telangana - 500 023

Respondent: Secretary to Government (FAC), Minorities Welfare Department, Telangana Secretariat, Hyderabad

Present: Mr. Mohd. Jafer for the petitioner.

None for the respondent.

Mr. Mohd. Jafer has produced the original Memo No. 964/Estt-II/A2/2014-2 dated 25.11.2014 issued by the Minorities Welfare (Estt.-II) Department, Government of Telangana granting temporary minority status certificate to the petitioner institution for the academic year 2014-15, which after due verification was returned to him. He has submitted that this temporary minority status certificate be converted into permanent one. In our considered opinion the said submission of the petitioner merits acceptance.

In *N. Ammad vs. Emjay High School* (1988) 6 SCC 674 the Supreme Court has held that a minority educational institution continues to be so whether the Government declares it as such or not. When the Government declares an educational institution as a minority institution, it merely recognizes a factual position that the institution was established and is being administered by a minority community. The declaration is merely an open acceptance of the legal character of the institution which must necessarily have existed antecedent to such declaration.

The issue as to whether the minority status granted to institutions were bound to be renewed periodically had already been considered 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. It has been held that a minority status cannot 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 passing the order of conferral of 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.”

(emphasis added)

Thus, the minority status once granted need not to be renewed periodically. Once the Government is satisfied and has granted the declaration, the same would hold good permanently.

Relying on the aforesaid judgment of the Madras High Court, we find and hold that the petitioner institution 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.

File No.943 of 2015

Subject: Converting temporary Minority Status Certificate to Permanent One

Petitioner: Nizam School of Education, Near Ramoji Film City, Deshmukhi (V), Pochampally (M), Nalgonda District, Telangana -509 284

Respondent: Secretary to Government (FAC), Minorities Welfare Department, Telangana Secretariat, Hyderabad

Present: Mr. Mohd. Jafer for the petitioner.

None for the respondent.

Mr. Mohd. Jafer has produced the original Memo No. 8022/SDMA/A1/2012-2 dated 16.9.2013 issued by the Minorities Welfare (SDM) Department, Government of Andhra Pradesh granting temporary minority status certificate to the petitioner institution for the academic year 2013-14, which after due verification was returned to him. He has submitted that this temporary minority status certificate be converted into permanent one. In our considered opinion the said submission of the petitioner merits acceptance.

In N. Ammad vs. Emjay High School (1988) 6 SCC 674 the Supreme Court has held that a minority educational institution continues to be so whether the Government declares it as such or not. When the Government declares an educational institution as a minority institution, it merely recognizes a factual position that the institution was established and is being administered by a minority community. The declaration is merely an open acceptance of the legal character of the institution which must necessarily have existed antecedent to such declaration.

The issue as to whether the minority status granted to institutions were bound to be renewed periodically had already been considered 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. It has been held that a minority status cannot 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 passing the order of conferral of 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.”

(emphasis added)

Thus, the minority status once granted need not to be renewed periodically. Once the Government is satisfied and has granted the declaration, the same would hold good permanently.

Relying on the aforecited judgment of the Madras High Court, we find and hold that the petitioner institution 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.

File No.1019 of 2015

Subject: **Converting temporary Minority Status Certificate to Permanent One**

Petitioner: Royal Institute of Technology & Science, Damergidda (V), Chevella
(M), Ranga Reddy District, Telangana

Respondent: Secretary to Government (FAC), Minorities Welfare Department,
Telangana Secretariat, Hyderabad

Present: **Mr. Arif Rizwan for the petitioner.**

None for the respondent.

Vide order dated 23.7.2015, the case was listed for hearing on 28.1.2016. the petitioner has file an application for taking up the case today. For the reasons stated in the application, it is allowed and the case is taken up today. The date of 28.1.2016 fixed in the matter is hereby cancelled.

Mr. Arif Rizwan has produced the original memo No. 3920/SDM/A1/2013-2 dated 8.7.2013 of the Secretary, Minorities Welfare (SDM) Department, government of Andhra Pradesh granting temporary minority status certificate to the petitioner institution for three academic years i.e. from 2013-14 to 2015-16, which after due verification was returned to him. He has submitted that this temporary minority status certificate be converted into a permanent one. In our considered opinion the said submission of the petitioner merits acceptance.

In N. Ammad vs. Emjay High School (1988) 6 SCC 674 the Supreme Court has held that a minority educational institution continues to be so whether the Government declares it as such or not. When the Government declares an educational institution as a minority institution, it merely recognizes a factual position that the institution was established and is being administered by a minority community. The declaration is merely an open acceptance of the legal character of the institution which must necessarily have existed antecedent to such declaration.

The issue as to whether the minority status granted to institutions were bound to be

renewed periodically had already been considered 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. It has been held that a minority status cannot 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 passing the order of conferral of 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.”

(emphasis added)

Thus, the minority status once granted need not to be renewed periodically. Once the Government is satisfied and has granted the declaration, the same would hold good permanently.

Relying on the aforesaid judgment of the Madras High Court, we find and hold that the petitioner institution 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.

File No.1020 of 2015

Subject: Converting temporary Minority Status Certificate to Permanent One

Petitioner: Royal College of Education, Damergidda (V), Chevella (M), Ranga Reddy District, Telangana

Respondent: Secretary to Government (FAC), Minorities Welfare Department,
Telangana Secretariat, Hyderabad

Present: Mr. Arif Rizwan for the petitioner.

None for the respondent.

Vide order dated 23.7.2015, the case was listed for hearing on 28.1.2016. the petitioner has file an application for taking up the case today. For the reasons stated in the application, it is allowed and the case is taken up today. The date of 28.1.2016 fixed in the matter is hereby cancelled.

Mr. Arif Rizwan has produced the original memo No. 2073/Estt-II/A2/2015-1 dated 15.5.2015 issued by the Special Secretary, Minorities Welfare (Estt-II) Department, Government of Andhra Pradesh granting temporary minority status certificate to the petitioner institution for three academic year 2015-16, which after due verification was returned to him. He has submitted that this temporary minority status certificate be converted into a permanent one. In our considered opinion the said submission of the petitioner merits acceptance.

In N. Ammad vs. Emjay High School (1988) 6 SCC 674 the Supreme Court has held that a minority educational institution continues to be so whether the Government declares it as such or not. When the Government declares an educational institution as a minority institution, it merely recognizes a factual position that the institution was established and is being administered by a minority community. The declaration is merely an open acceptance of the legal character of the institution which must necessarily have existed antecedent to such declaration.

The issue as to whether the minority status granted to institutions were bound to be renewed periodically had already been considered 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. It has been held that a minority status cannot 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 passing the order of conferral of 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.”

(emphasis added)

Thus, the minority status once granted need not to be renewed periodically. Once the Government is satisfied and has granted the declaration, the same would hold good permanently.

Relying on the aforesaid judgment of the Madras High Court, we find and hold that the petitioner institution 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.

File No.1198 of 2015

Subject: Converting temporary Minority Status Certificate to Permanent One

Petitioner: Indore Nursing college, Gendalal Bam Parisar, Rau-Pithampur Road, Opp. IIM, Village DehriRangwasa, Rau, Indore, Madhya Pradesh - 453 331

Respondent: Commissioner, Backward Classes & Minority Welfare Department, Government of Madhya Pradesh

Present: Mr. S.C. Shrivastava for the petitioner.

None for the respondent.

Despite service of notice, there is no appearance on behalf of the respondent. Hence the case is proceeded ex-parte.

Mr. S.C. Shrivastava has invited our attention to the order dated 27.05.2015 of the Commissioner, Backward Classes and Minority Welfare Department, Government of M.P., in support of his contention that the petitioner deserves grant of permanent minority status certificate. In our considered opinion the submission of the learned counsel for the petitioner merits acceptance. By the order dated 27.05.2015, the Commissioner, Backward Classes and Minority Welfare Department, Government of M.P., granted a temporary minority status certificate to the petitioner for one year.

In N. Ammad vs. Emjay High School (1988) 6 SCC 674 the Supreme Court has held that a minority educational institution continues to be so whether the Government declares it as such or not. When the Government declares an educational institution as a minority institution, it merely recognizes a factual position that the institution was established and is being administered by a minority community. The declaration is merely an open acceptance of the legal character of the institution which must necessarily have existed antecedent to such declaration.

The issue as to whether the minority status granted to institutions were bound to be renewed periodically had already been considered 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. It has been held that a minority status cannot 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 passing the order of conferral of 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.”

(emphasis added)

Thus, the minority status once granted need not to be renewed periodically. Once the Government is satisfied and has granted the declaration, the same would hold good permanently.

Relying on the aforesaid judgment of the Madras High Court, we find and hold that the petitioner institution 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.

File No.1199 of 2015

Subject: Converting temporary Minority Status Certificate to Permanent One

Petitioner: Idyllic Institute of Management, Gendalal Bam Parisar, Rau-Pithampur Road, Opp. IIM, Vilalge Dehri-Rangwasa, Rau, Indore, M.P.-453 331

Respondent: Commissioner, Backward Classes & Minority Welfare Department, Government of Madhya Pradesh

Present: Mr. S.C. Shrivastava for the petitioner.

None for the respondent.

Despite service of notice, there is no appearance on behalf of the respondent. Hence the case is proceeded ex-parte.

Mr. S.C. Shrivastava has invited our attention to the order dated 27.05.2015 of

the Commissioner, Backward Classes and Minority Welfare Department, Government of M.P., in support of his contention that the petitioner deserves grant of permanent minority status certificate. In our considered opinion the submission of the learned counsel for the petitioner merits acceptance. By the order dated 27.05.2015, the Commissioner, Backward Classes and Minority Welfare Department, Government of M.P., granted a temporary minority status certificate to the petitioner for one year.

In *N. Ammad vs. Emjay High School* (1988) 6 SCC 674 the Supreme Court has held that a minority educational institution continues to be so whether the Government declares it as such or not. When the Government declares an educational institution as a minority institution, it merely recognizes a factual position that the institution was established and is being administered by a minority community. The declaration is merely an open acceptance of the legal character of the institution which must necessarily have existed antecedent to such declaration.

The issue as to whether the minority status granted to institutions were bound to be renewed periodically had already been considered 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. It has been held that a minority status cannot 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 passing the order of conferral of 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.”

(emphasis added)

Thus, the minority status once granted need not to be renewed periodically. Once the Government is satisfied and has granted the declaration, the same would hold good permanently.

Relying on the aforesaid judgment of the Madras High Court, we find and hold that the petitioner institution 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.

File No.1200 of 2015

Subject: Converting temporary Minority Status Certificate to Permanent One

Petitioner: Indore Institute of Law, Gendalal Bam Parisar, Rau-Pithampur Road, Opp. IIM, Village DehriRangwasa, Rau, Indore, Madhya Pradesh - 453 331

Respondent: Commissioner, Backward Classes & Minority Welfare Department, Government of Madhya Pradesh

Present: Mr. S.C. Shrivastava for the petitioner.

None for the respondent.

Despite service of notice, there is no appearance on behalf of the respondent. Hence the case is proceeded ex-parte.

Mr. S.C. Shrivastava has invited our attention to the order dated 27.05.2015 of the Commissioner, Backward Classes and Minority Welfare Department, Government

of M.P., in support of his contention that the petitioner deserves grant of permanent minority status certificate. In our considered opinion the submission of the learned counsel for the petitioner merits acceptance. By the order dated 27.05.2015, the Commissioner, Backward Classes and Minority Welfare Department, Government of M.P., granted a temporary minority status certificate to the petitioner for one year.

In *N. Ammad vs. Emjay High School* (1988) 6 SCC 674 the Supreme Court has held that a minority educational institution continues to be so whether the Government declares it as such or not. When the Government declares an educational institution as a minority institution, it merely recognizes a factual position that the institution was established and is being administered by a minority community. The declaration is merely an open acceptance of the legal character of the institution which must necessarily have existed antecedent to such declaration.

The issue as to whether the minority status granted to institutions were bound to be renewed periodically had already been considered 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. It has been held that a minority status cannot 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 passing the order of conferral of 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.”

(emphasis added)

Thus, the minority status once granted need not to be renewed periodically. Once the Government is satisfied and has granted the declaration, the same would hold good permanently.

Relying on the aforesaid judgment of the Madras High Court, we find and hold that the petitioner institution 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 9 – REFERENCES FROM CENTRAL GOVERNMENT AND STATE GOVERNMENTS AND COMMISSION'S RECOMMENDATIONS.

As per Section 11 (a) of the Act the Commission will advise the Central Government or any State Government on any question relating to the education of minorities that may be referred to it. During the year several question of law and interpretations of the Act were received from the State Government and the Central Government (Ministry of Human Resource Development). Two important cases are worth mentioning;

WORKSHOP AT MUMBAI ON 28.8.2015

1. Several clarifications were solicited from Government of Maharashtra, Rajasthan, Jharkhand and Daman and Diu on issues related to minority education. It was clear that the above State Governments, UT Administration were having doubts on the instructions on minority education.
2. It was, therefore, decided to hold a workshop on 28th August, 2015 at Mumbai, Maharashtra. The workshop was primarily meant for officers of various departments of the above mentioned governments like School Education Department, Higher Education Department and Minority Welfare Department. It concentrated on the constitutional provisions on minority education, important judgments of the Supreme Court, High Courts and NCMEI Act and procedure following by the Commission. From NCMEI Shri Zafar Agha, Hon'ble Member, Ms. Rita Chatterjee, Secretary and Shri Sandeep Jain, Deputy Secretary, NCMEI attended the Workshop.
3. The Workshop was attended by representatives of Government of Maharashtra, Rajasthan and Orissa dealing with School Education, Higher Education and Technical Education and Minority Welfare Department. From Maharashtra Government the team was led by Ms. Jayashree Mukherjee,

Principal Secretary, Minority Welfare Department. The Workshop was divided into 2 parts. In the first half the Session was meant for government officials. The second half was for Minority Educational Institutions which were both religious and religious minorities.

4. It came to light that Maharashtra Government have notified an Act known as Maharashtra Unaided Private Professional Educational Institutions (Regulation of Admissions and Fees) Act, 2015. Section 6 (2) of Chapter 2 on regulation of admission states that

“In an unaided Minority Educational Institution, the admissions shall be made as per the policy of the State Government and not less than fifty-one per cent of the sanctioned intake shall be filled by minority students from within the State, belonging to the minority community to which the institution belongs on the basis of inter-se merit of the Common Entrance Test (CET) and Centralized Admission Process (CAP):

Provided that, if any seats earmarked for the minority category in an unaided minority education institution remain to be filled in a academic year or where the students leave the institution after selection, the unfilled vacant seats shall be surrendered to the Competent Authority of the State Government for being filled up from the minority to which the minority institution belongs, on the basis of inter-se merit list prepared on the basis of the Common Entrance Test (CET) conducted in accordance with the provisions of sub-section (4) of section 10 and Centralized Admission Process (CAP):

Provided further that, if any seats remain unfilled even thereafter, such unfilled seats shall be filled from the student belonging to the general category on the basis of merit of the Common Entrance Test (CET) conducted by the Competent Authority and Centralized Admission Process (CAP):

Provided also that, if such institution fails to admit minimum fifty-one per cent of its sanctioned intake from the persons belonging to the concerned minority, for period of three consecutive years that Competent Authority shall inform the State Government to refer such institution for taking action under Section 12C of the National Commission for Minority Educational Institutions Act, 2004”.

Maharashtra Government were of the opinion that the critical issue fixing percentage for admission to Minority Education Institutions for minority students of backward community, still appears to be undefined proposition. Section 12C(b) of NCMEI Act proposes that the minority status can be withdrawn, if percentage of admission of students is not adhered to. It is not possible or desirable to fix separate percentages of different communities religious or linguistic. A reading of NCMEI guidelines shows that Hon’ble Supreme Court and High Courts at different points of time had prescribed that State Government should fix the minimum percentage of admission. The standard of minimum percentage cannot be applicable to various practical judgements. Similar provision also exists in the guidelines for recognition of educational institutions as minority educational institution in West Bengal for withdrawing recognition of a minority school.

5. Section 12 C (b) of the Act relating to power to cancel minority status granted to an institution by the Commission, states that minority status can be cancelled “if on verification of the records during the inspection or investigation, it is found that the Minority Educational Institutional has failed to admit students belonging to the minority community in the institution as per rules and prescribed percentage governing admissions during any academic year” .It has been held by the Supreme Court in TMA Pai case that it may not be advisable to fix any specific percentage. A ceiling of 50% cannot be imposed against the minority institutions, requiring them to compulsorily admit the

minority students upto 50%. In view of above, it is clear that Section 12C (b) which was drafted in 2004 is not in tune with various judgment of Supreme Court delivered from 2010 onwards. Necessary clarifications were given during the Workshop on the doubts of State Government officials for dealing with Minority Educational Institutions. A reference were made to Law Ministry through Ministry of Human Resource Development for a clarification whether Section 12C (b) is unconstitutional and should be removed from NCMEI Act, 2004.

CLARIFICATION BY NCMEI WHETHER RIGHT TO EDUCATION ACT, 2009 IS APPLICABLE TO MINORITY EDUCATIONAL INSTITUTIONS

A reference was received from Department of Madhya Pradesh whether Right to Education Act, 2009 will apply to aided minority schools. It was clarified by the Commission that the judgment dated 6.5.2014 of the Hon'ble Supreme Court in WP(C) No. 416 of 2012 (2014 AIR SCW 2859) in the matter of Pramati Educational & Cultural Trust & Ors. Vs. Union of India & Ors is very clear. In para 47 of the judgment, the Constitutional Bench of the Hon'ble Supreme Court has held that the RTE Act in so far as it applies to minority schools, aided or unaided, covered under clause (1) of Article 30 of the Constitution is ultra vires of the Constitution.

As such, that the RTE Act, 2009 is not applicable to minority educational institutions, aided or unaided, covered under Art 30(1) of the Constitution of India.

Therefore all the State Governments were requested to issue requisite directions to school authorities to implement the said judgment in letter and spirit.

CHAPTER- 10 RECOMMENDATIONS FOR THE INTEGRATED DEVELOPMENT OF EDUCATION OF THE MINORITIES

The functions of the Commission as inter-alia enumerated in Section 11 of NCMEI Act are reproduced below:

- “(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 Commission held a meeting with eminent persons from the Jain Community on 12th January 2016 at Conference Room of the Commission, which was presided over by Shri Zafar Agha, Hon’ble Member in the presence of Dr. Baltej Singh Mann, Hon’ble Member and Dr. Naheed Abidi, Hon’ble Member. The purpose of the meeting was interaction by the newly appointed Members of the Commission



with prominent members of the Jain Community working in the education sector. The members of the Jain Community were informed that the Jain have been declared as a religious minority in 2014 by the Government of India. Educational institutions run by Members of the Jain community are already functioning throughout the country. These institutions may now apply for Minority Status Certificate. They were informed about the benefits of being declared Minority Educational Institutions and advantages that they can obtain out of it. Shri Zafar Agha, Hon'ble Member of the Commission assured them that full cooperation will be extended with the Jain institutions in protecting their educational rights.

From the Jain community side, Mr. Pardhuman Jain, Mr. Nirmal Sethi, Mr. Swadesh Bhusan Jain, Mr. Akhalesh Jain, Mr. Swaraj Jain, Mr. Abhishek Jain, Mr. Chakresh Jain, Mr. Sanjay Jain, Mr. Sachin Jain, Mr. Pankaj Jain, Mr. Sanat Kumar Jain, Mr. Rajeev Nagpal, Mr. Maninder Jain, Mr. Padam Chand Jain, Mr. Mithlesh Jain, Mr. K L Patwari, Mr. Sukhraj Sethiya, Mr. Shanti Jain, Mr. Sanjay K. Jain, Mr. Atul Jain, Mr. Anand Parkash Jain, Mr. Raj Kumar Jain, Mr. N.K Jain, and Mr. Yogesh Jain attended the meeting.

On 12/4/2016 a meeting was held with the members Sikh community from Guru Tek Bahadur Public School, New Delhi at Conference Room of the Commission, which was presided over by Shri Zafar Agha, Hon'ble Member in the presence of Dr. Baltej Singh Mann, Hon'ble Member. The members of the Sikh Community who called on the new members of the NCMEI were appraised of the benefits of minority status and they were asked to apply for Minority Status Certificate for their educational institutions. Thus, it was an awareness campaign about the Commission among the Sikh Community.

CHAPTER 11- INSTANCES OF VIOLATION 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 Ahmadabad 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.

From the year 2014 onwards, the Commission came across several instances of encroachment on the educational rights of the Minority Institutions by the Education Departments of many State Governments. In Karnataka, a large number of minority institutions mostly belonging to linguistic minorities moved the High Court of Karnataka at Bangalore on the grounds that the State Education Department was enforcing the provisions of Right to Education Act, 2009 on these institutions. NCMEI also made a party by the High Court. It has been held by the Supreme Court that the Right of Children to free and compulsory Education Act, 2009 cannot be made applicable to a minority educational institution covered under Article 30(1) of the Constitution. Their lordships of the Supreme Court have held that the Act in so far it is made applicable to minority schools referred in clause (1) of Article 30 of the Constitution is ultra vires the Constitution. Finally, High Court of Karnataka at Bangalore admitted in their

judgment dated 30th April, 2014 on cases filed by 5 institutions that the petitioner institution cannot be compelled to admit children under the Right of Children to Free and Compulsory Education Act, 2009.

REGIONAL CONFERENCES

The Commission noticed that violation on a large scale of rights of minority education institutions is taking place hence it was decided to hold regional conferences to take stock of the situation in the states. The State Govt. were requested to organize conferences so that the Commission could interact with the officials of State Governments and minority educational institutions and listen to their problems and pass orders.

FIRST REGIONAL CONFERENCE

The first regional conference was organized by National Commission for Minority Educational Institutions (NCMEI) in collaboration with the Department of Education, Chandigarh Administration at Hotel Mountview, Chandigarh. It was attended by the ministers and officers of the states of Punjab, Haryana, Himachal Pradesh, Jammu & Kashmir and UT of Chandigarh.

The main agenda of the conference was to create awareness about National Commission for Minority Educational Institutions (NCMEI) and its functions related to minority education. Through an interactive session among stake holders and senior government officers, the Conference also aimed at ascertaining from these institutions that educational rights guaranteed by Constitution of India is not violated or deprived of by the state agencies

The Conference was presided by Prof. Kaptan Singh Solanki, Hon'ble Governor of Haryana, Punjab and U.T. Chandigarh, Mr. Daljeet Singh Cheema, Hon'ble Education Minister, Punjab, Ms. Kavita Jain, Hon'ble Minister, SJ & E, Haryana, Mr. Gurmohan Singh



Walia, Vice Chancellor, G.G.S. University, Punjab, Mr. Sarvjit Singh, Finance Secretary, U.T. Chandigarh, Mr. M. Masih, Chairman, Punjab Sikh Minority Commission, Mr. Vijay Kumar Dev, Advisor to Administration. From the Commission side it was attended by Mr. Zafar Agha, Member (in chair), NCMEI, Dr. Baltej Singh Mann, Member, NCMEI, Dr. Naheed Abidi, Member, NCMEI, Smt. Rita Chatterjee, Secretary of the NCMEI, Mr. Sandeep Jain, Deputy Secretary, NCMEI.

Sh. Zafar Agha, Hon'ble Member, NCMEI made the opening remarks and welcomed H.E. Prof. Kaptan Singh Solanki, Hon'ble Governor of Haryana, Punjab and Administrator U.T. Chandigarh and all the dignitaries and delegates from Punjab, Haryana, Himachal Pradesh, Jammu & Kashmir and Chandigarh. He brought out that the Commission had granted 12,000 minority status certificates to the educational institutions of different states. He further mentioned that the purpose of the meeting was to interact with stakeholders and the members of the minority community so as to understand problems/difficulties faced by the various stakeholders and to provide them with a forum for discussion of their problems. It is also for providing an opportunity to the Commission to apprise the members of the minority community about their constitutional rights as well as the roles and responsibilities of the Commission for redressal of their grievances. This opportunity was also made use of for interacting with departments of state governments and sensitizing them about the rights of minority enshrined in Article 30(1) of the Constitution of India.



Ms. Kavita Jain, Hon'ble Minister, Social Justice & Empowerment, Haryana expressed her gratitude for inviting her to the Conference. She stated that the Conference was a valuable effort for interacting with the minority educational institutions for understanding the problem faced by them.

She explained about the educational rights of the minorities guaranteed under

Article 30 (1) the Constitution of India. The participants were informed by her about the various welfare schemes being run by the State Government for the minorities and the various projects and scholarship programmes being run for the welfare of the minority students. She laid emphasis on imparting quality education so as to shape the development of our younger generation in assuming a leadership role in the nation building.

Mr. Daljeet Singh Cheema, Hon'ble Education Minister, Punjab stated that there is lack of awareness amongst the minority communities about their constitution rights and the benefits available to them and various schemes of the Government of India. He enquired whether the minority status certificate is issued at the national level by the Commission. Sikhs are in majority in the State of Punjab and how their status as minority can be decided in the state. He also insisted that a council for promotion of Punjabi language be set up as the National Council for Promotion of Urdu Language (NCPUL) has been set up for promotion of Urdu language. He desired that Minority Commission should come forward to benefit Sikligar and Vanjara Sikhs.

Dr. Naheed Abidi, Hon'ble Member, NCMEI recited the mantra of peace "asato mā sadgamaya, tamasomā jyotir gamaya", which means that "From ignorance, lead me to truth; From darkness, lead me to light". By this, she laid emphasis for imparting education amongst all. She informed that NCMEI has been established to safeguard the rights of minority educational institutions. Section 2(g) gives a right to minorities to establish and administer educational institutions of their choice. She also mentioned about the slogan of the Hon'ble Prime Minister "Sabka Saath Sabka Vikas".



Mr. Gurmohan Singh Walia, Vice Chancellor, G.G.S. University, Punjab congratulated NCMEI for organizing the regional conference in Chandigarh for sensitizing the minorities and the role of the Commission for redressal of their grievances. He laid strong emphasis on quality of education and on expanding the

base of science, information and technology.

Prof. Kaptan Singh Solanki, Hon'ble Governor of Haryana, Punjab and Administrator U.T. Chandigarh welcomed the initiative and gave his full support to NCMEI. He said that the initiative would certainly help in strengthening the key needs felt by the minority communities, identifying solutions of their problems on a holistic basis and facilitating focus of governmental action on the needs and concerns of the nation. He asked the Indian states to protect life and liberty of all citizens, particularly those belonging to minority communities and make education compulsory for all.

Dr. Baltej Singh Mann, Member, National Commission for Minority Educational Institutions, delivered a vote of thanks to all the delegates who have come from distant places and sparing their valuable time for making the function a great success.

After the meeting the second session was held and the Commission interacted with the stakeholders, state officials, representative of minority educational institutions. Thereafter the media briefing was also held wherein the officers of the Commission responded to the queries raised by them.

Second session of interaction with stakeholders, state officials, representative of minority educational institutions.

Secretary of the NCMEI presented PowerPoint presentation. She explained about the educational rights of the minorities guaranteed under Article 30 (1) the Constitution of India. She also explained about Section 10, 11 and 12 of the NCMEI Act.

During the session, some stakeholders stated that there is no coordination between the Central Government and the State Government. DPI Chandigarh complained that after obtaining minority status certificates, the minority institutions do not admit the students of their own community, for whom education institution was established by them. He asked whether the minority status certificate granted can be cancelled by the Commission.

Hon'ble Member Zafar Agha commented that this amounts to abuse or misuse of the educational rights of the minorities and if any minority institution is found

guilty of such malpractices or maladministration then it would entail cancellation of its minority status. No minority educational institution can legitimately claim immunity to carry on such nefarious practices under the garb of Article 30.

One of the representatives of minority educational institutions asked about fixation of the percentage by the State Government governing admission of a minority community in a minority educational institution. In reply thereof, Hon'ble Member Zafar Agha informed that the Commission has already held in the Case No. 1320 of 2009 (Buckley Primary School vs. The Principal Secretary to Government, School & Mass Education Department, Government of Orissa decided on 06.07.2010) that the identifying criteria of fixation of the percentage by the State Government governing admission of a minority community in a minority education institution cannot be included in the indicia for determining the minority status of such an institution.

Some of the representatives of minority educational institutions asked whether any minority institution can directly apply to the Commission. In reply thereof, Hon'ble Member Zafar Agha informed that institutions where the State Government has not appointed competent authority to grant minority status certificate and also such institutions which are affiliated to the Central Board, can approach Commission directly for grant of minority status certificate. He informed that the schools which are affiliated to the state board should first apply to the State Government. If the competent authority does not grant such certificate or 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.

One of the representative of minority educational institution asked whether the Right to Education Act 2009 is applicable on minority educational institutions. Hon'ble Member Zafar Agha replied it is not applicable on the minority educational institutions.

Some of the participants stated that there is a huge difficulty in obtaining affiliation/ recognition from the State Government after establishment of the minority institution. Hon'ble Member informed about Section 10A of the NCMEI Act wherein 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.

It was stated by one member of the School Management running a school in Haryana that Haryana Government while granting NOC for opening a new school mentions that the school should comply with all the conditions of RTE Act, 2009 then, only NOC will be given. Hon'ble Member said that this is a total violation of Article 30 of the Constitution granting educational rights of minorities. Spirit of law is not being followed by Haryana Government.

Shri H. S. Monga from Yamuna Nagar, Haryana said that the awareness programme from the Commission may be started in the district of Haryana where minorities open and run their educational institutions. Hon'ble Member Zafar Agha said that no mechanisms has been setup by NCMEI by going to districts for creating awareness. However, the purpose of the Regional Conference was to create awareness among state officials as well as minority educational institutions.

CASES EMERGING OUT OF THE REGIONAL CONFERENCE ON THE BASIS OF PETITON FURNISHED BY THE INSTITUTIONS

The First Regional Conference organized by NCMEI was held at Chandigarh on 26.02.2016 to discuss the problems faced by the minority educational institutions in the states of Punjab, Haryana, Himachal Pradesh, J&K and UT of Chandigarh with regard to deprivation and violation of education rights of minorities granted under Article 30 of the Constitution. The Conference was presided over by His Excellency Governor of Punjab.

During the interactive session with the representatives of minority educational institutions it came to light that Haryana Govt. is enforcing Right of Children to Free and Compulsory Education Act, 2009 to the unaided minority schools, which is a Central Act and which does not apply to unaided minority schools.

The request was made that all Akal Academies which are minority educational institutions, are not covered by the Haryana School Education Act, 1995 and the rules

made thereunder. Haryana Govt. may be asked to submit a report within 15 days as to why Haryana Govt. is enforcing Right of Children to Free and Compulsory Education Act, 2009 to the unaided minority schools. The cases which addressed such issues are dealt with below:

F. No. 227of 2016

The Kalgidhar Trust/Society, V.P.O. Baru Sahib (Via Rajgarh), Dist. Sirmour, Himachal Pradesh

Vs.

The Secretary to the Government of Haryana, Education Department, Chandigarh

Present: None

List on 17.03.2016

Present: Dr. Raghbir Singh for the petitioner
Mr. Anoop Singh for the respondent

Mr. Anoop Singh has filed a letter of the Directorate of School Education, Haryana requesting for an adjournment for filing reply. Request is granted.

List on 5.4.2016.

Present: Dr. Raghbir Singh for the petitioner
Mr. Anoop Singh for the respondent

Mr. Anoop Singh has filed reply. Copy furnished to Mr. Raghbir Singh, who is satisfied with reply. There is nothing survives in the petition. Accordingly, the petition is disposed of.

5.4.2016

F. NO. 228 OF 2016

The Principal, Islamia Primary School, Sanghnai, Dist. Una, Himachal Pradesh

Vs.

Director, Elementary Education Department, Govt. of Himachal Pradesh, Shimla and Ors.

Present: None

The First Regional Conference organized by NCMEI was held at Chandigarh on 26.02.2016 to discuss the problems faced by the minority educational institutions with regard to deprivation and violation of education rights of minorities granted under Article of the Constitution in the states of Punjab, Haryana, Himachal Pradesh, J&K and UT of Chandigarh. The conference was presided over by His Excellency Governor of Punjab.

During the interactive session with the representatives of minority educational institutions Mr. Sadiq Mohammad informed that the affiliation of above school for the year 2015-6 has been cancelled by BEEO of Dist. Of Una on the ground that though teachers of above school has B.A., B.Ed. (TGT) they have not attended Basic Teaching Course as required by RTE Act, 2009, which is not applicable to minority educational institutions.

Himachal Pradesh Govt. may be asked to submit a report within 15 days as to why action has been taken under RTE Act, 2009 against minority educational institution which is under H.P. Wakf Board. Issue notice to the respondents with a copy to the petitioner.

List on 17.03.2016

Present: Mr. Sadiq Mohammed for the petitioner
None for the respondent

Mr. Sadiq Mohammed has filed certain documents, which are taken on record. Copy of the same be sent to the respondents.

Reply has been received from the respondent. Copy of the same be sent to the petitioner for filing rejoinder, if any.

Summon the respondents to appear before the Commission

List on 12.4.2016

F. NO. 229 OF 2016

**Association of Sikh Minority Educational & Professional Institutions,
Haryana**

Vs.

Secretary, Higher Education Department, Govt. of Haryana

Present: None

The First Regional Conference organized by NCMEI was held at Chandigarh on 26.02.2016 to discuss the problems faced by the minority educational institutions with regard to deprivation and violation of education rights of minorities granted under Article of the Constitution in the states of Punjab, Haryana, Himachal Pradesh, J&K and UT of Chandigarh. The conference was presided over by His Excellency Governor of Punjab.

During the interactive session with the representatives of minority educational institutions Association of Sikh Minority Educational & Professional Institutions of Haryana submitted to issue directions to the Govt. of Haryana, Higher Education Department to withdraw the condition imposed on minority educational institutions for admission of minimum 50% candidates of minority community.

Haryana Govt. may be asked to submit a report within 15 days as to why such condition has been imposed on minority educational institutions. Issue notice to the respondent with a copy to the petitioner.

List on 17.03.2016

Present: A.S. Oberoi for the petitioner
None for the respondent.

Mr. A. S. Oberoi has filed a copy of the policy guidelines conditions for grant of NOC to minority educational institutions in Haryana.

Summon the respondent to appear before the Commission.

List on 25.4.2016

F. No. 238 of 2016

G S Bakshi, St Kabir Public School, Sector 26, Chandigarh

Vs.

Director, School Education Department, Chandigarh Administration, UT of Chandigarh

Present: None

The First Regional Conference organized by NCMEI was held at Chandigarh on 26.02.2016 to discuss the problems faced by the minority educational institutions with regard to deprivation and violation of education rights of minorities granted under Article of the Constitution in the states of Punjab, Haryana, Himachal Pradesh, J&K and UT of Chandigarh. The conference was presided over by His Excellency Governor of Punjab.

During the interactive session with the representatives of minority educational institutions, Mr. G S Bakshi administrator St Kabir Public School submitted that Govt. is imposing RTE and EWS reservations on unaided minority institutions, while the fact is that minority institutions are not covered under RTE and EWS reservations.

Chandigarh administration may be asked to submit a report within 15 days as to why such reservations have been imposed on minority educational institutions. Issue notice to the respondent with a copy to the petitioner.

List on 17.03.2016

Application has been received from Shri Rubinderjit Singh Brar, Director, School Education, Chandigarh Administration in Case No. 238 of 2016 and 239 of 2016 requesting for an adjournment. For the reasons stated in the application, it is allowed.

List on 22.4.2016 at 12:00 noon in the Chairman's Chamber. Inform the parties accordingly. Copy of the order be placed on the record of Case No. 239 of 2016.

F. NO. 239 OF 2016

R.D. Singh Riar, Principal, The New Public School, Sector 18-B, Chandigarh

Vs.

The District Education Officer, Chandigarh Administration, UT of Chandigarh

Present: None

The First Regional Conference organized by NCMEI was held at Chandigarh on 26.02.2016 to discuss the problems faced by the minority educational institutions with regard to deprivation and violation of education rights of minorities granted under Article of the Constitution in the states of Punjab, Haryana, Himachal Pradesh, J&K and UT of Chandigarh. The conference was presided over by His Excellency Governor of Punjab.

During the interactive session with the representatives of minority educational institutions, Mr. R.D. Singh Riar, Principal, The New Public School requested for reimbursement of expenditure per child as per provisions under RTE ACT, 2009.

Chandigarh administration may be asked to submit a report within 15 days as to why reimbursement is not made to the above school. Issue notice to the respondent with a copy to the petitioner.

List on 17.03.2016

Application has been received from Shri Rubinderjit Singh Brar, Director, School Education, Chandigarh Administration in Case No. 238 of 2016 and 239 of 2016 requesting for an adjournment. For the reasons stated in the application, it is allowed.

List on 22.4.2016 at 12:00 noon in the Chairman's Chamber. Inform the parties accordingly. Copy of the order be placed on the record of Case No. 239 of 2016.

SECOND REGIONAL CONFERENCE

The second Regional Conference was organized by National Commission for Minority Educational Institutions (NCMEI) with the support of Department of Primary & Secondary School Education, Govt. of Karnataka in Room No. 419, 4th Floor, Vikas Soudha, Bengaluru, Karnataka.

The main agenda of the Conference was to create awareness about National Commission for Minority Educational Institutions (NCMEI) and its role and responsibilities related to minority education of Karnataka. Through an interactive session among stake holders and senior government officers, the Conference also aimed at ascertaining from these institutions that educational rights guaranteed by Constitution of India is not violated or deprived by the State agencies.



The Conference was inaugurated by Dr. Qamar-Ul- Islam Hon'ble Minister for Municipalities & Local Bodies, Minorities Welfare & Wakf. The Presidential address was delivered by Shri Roshan Baig, Hon'ble Minister for Infrastructure, Development, Haj, Information & Public Relations. The Conference was also addressed by Dr. Baltej Singh Mann,



Member, NCMEI and Shri Ajay Seth, Principal Secretary, Primary and Secondary Education, Government of Karnataka. Smt Rita Chatterjee, Secretary, NCMEI made a power point presentation during the Conference.

Shri Zafar Agha while welcoming all the delegates thanked the senior Ministers of the Karnataka for not only attending it but also helping in organising the Conference. The effort made by the State Government in organising the Conference was acknowledged. The Commission felt that by sitting in Delhi it does not have much scope for interacting with minority educational institutions and to know their problems.



Sri Agha acknowledged that in Karnataka there are a large number of minority educational institutions. He hoped that deliberations which would emerge out of the Conference between the State Government and the Commission would be fruitful. Some highlights of his observations are: Indian Constitution is a unique Constitution as it gives right to every section of the society like dalit and minorities which have been left behind in the society due to some reasons. Minorities get wide protection under the Constitution. Therefore, under Article 30(1) the Minorities were granted the fundamental right to establish and administer educational institutions of their choice. It is a unique feature which one will not find in any other part of the world. But, there were no mechanism to determine a minorities institution. In 2004 Government took the decision to set up a body, which can take decisions on the status of the minority institutions. The state governments have also devised their own mechanism in granting minority status to the educational institutions. The Commission has granted about 12,000 minority status certificate to minority educational Institutions in various states/union territories. Hundreds of minority educational institutions come to the Commission seeking justice against discrimination and deprivation of educational rights. It was, therefore, decided to hold regional conferences. The first conference

was held in Chandigarh on 26th February, 2016 where four states of Punjab, Haryana, Himachal Pradesh and Jammu & Kashmir and UT of Chandigarh participated.

Shri Qamrul Islam, Wakf and Minority Welfare Minister

The highlights of his observations are: He welcomed the decision of the Commission to leave the Headquarters and come to the state to interact with state government officials and stake holders and minority educational institutions. He welcome the spirit of the meeting with minority educational institutions by the Commission for facilitating enforcement of the rights of minorities granted under the Constitution by visiting northern, southern, eastern and western Indian states. He said that the Chief Minister of Karnataka has become the idol of Samajik Nyaye. A Bill has been introduced in the legislature of the state giving the substantive power of civil court to the Minority Commission in the state. The Bill has been passed by the Assembly and is pending with the Council. He also appreciated the stand taken by NCMEI in granting permanent Minority Status Certificates because the founding members of management do not change religion. Hon'ble Chief Minister of Karnataka announced in the budget speech that the Minority Status Certificates given by the State Government for one year will now be effective for five years. These were the long pending demands which have been fulfilled by the present Government. At present there are 1,900 Minority Institutions in Karnataka, out of them 772 do not want to reserve 25 % of their seats under RTE as they are religious and linguistic minorities.

He also apprised all the delegates about the various schemes of Karnataka Government for the welfare of minorities such as pre-matric scholarship, post- matric scholarship for minorities, merit-cum-means scholarship for professional and technical courses, study kits for technical/ medical students, national overseas scholarship for minority students, incentive for minority students, pre- examination training/ coaching for competitive examination (UPSC/KPSC).



Roshan Baig Hon'ble Minister for Infrastructure Development, Information and Haj welcomed all the dignitaries and delegates for participating in this Conference of NCMEI. He requested to NCMEI to help on two issues. First was Sarva Sikha Abhiyan scheme. He said that 10 years back when UPA Government had organised a workshop on Sarva Sikha Abhiyan, the then Minister of State HRD had participated. From then on, the state government has been receiving substantial funds for the development of infrastructure in the schools. But there are many linguistic minority schools like Urdu schools, Tamil schools, Telegu schools. He requested the Commission to strongly urge the Government of India not to ignore the minority schools as far as Sarva Sikha Abhiyan is concerned because there is a huge reduction in the allotment of funds by the new Government. The second point was the funds for Agan - wadis is very meager. Every religious and linguistic minority schools in the state of Karnataka have Aganwadis. He desired that the Government of India should provide funds to them also.



Dr. Mann said that as a competent authority Commission is trying to solicit cooperation from the state officials. The Commission does not want to behave like a civil court. This was relevant in the context of first regional conference at Chandigarh where petitions were submitted during the Conference and thereafter notices were issued to the Chandigarh Administration to furnish their replies. Instead of furnishing replies, Chandigarh Administration sought adjournment of hearing and sought more time to file replies on various grounds. Such practices go against the principle of expeditious delivery of justice. The culture of seeking one adjournment is to be avoided and the Commission delivers ex-parte decisions in such cases. The Commission does not want to follow a line of confrontation with the State Government officials and issue bailable warrants to enforce their attendance before the Commission.

Representatives from 4 Minority Communities - Muslims, Christians, Jains, and Sikhs running minority education institutions in Karnataka participated in the Conference.

Presentation of Shri Ajay Seth, Principal Secretary, Primary and Secondary Education, Karnataka

Shri Ajay Seth made a Power point Presentation showing how the Karnataka Government has been fulfilling this constitutional obligation in primary schools and higher schools and PU colleges, their declaration as religious or linguistic minority schools. The latest policy announcement is in a Government Order dated 18th June, 2014, brings out the following three norms (i) The management should be a trust or society (ii) Two-third of the managing committee member should belong to the religious minority to whom they are claiming to provide the benefits and (iii) Not less than 25 % of the students should belong to the same linguistic or religious minority community. There are four officers who constitute verification committee which includes the Commissioner Public instructions, Bangalore and Mysore. Similarly, two additional commissioners at Dharwad and Gulbarga are responsible for their respective zones. For pre-university education (which is higher education in Karnataka), Director (PU) is in the Verification Committee.

1009 schools including high schools have been given minority status. Out of them 772 are exempt under the provision of RTE Act. One important announcement has been made by Hon. Chief Minister in his Budget speech yesterday that the entire process of applying for minority certificate as well as granting NOC will be made in the state. Furnishing of comments to the Commission for their appeal cases will also be done by the state. The system will be put in SAKALA which will be for the benefit of the members of the minority community. SAKALA is a system which is under 'Guarantee of Government Services Act' where Government service has to be provided in a time bound manner. Failing to provide time bound service will attract penalty. When it comes to degree colleges and technical institutions, there are two different orders issued in the year 2014. The difference between these two types of institutions lies in the percentage. A minimum 50% members of the concerned minority community should be there for degree college. In technical education the requirement is that 75

percent of the students should belong to minority community. The application has to be made to the Government directly which after the process of verification grants the certificate.



An interaction was also held with the Press where various questions relating to minority educational institutions were answered by the members of the Commission. The following is the excerpt of the interactive session wherein necessary clarification on the legal position of the rights of minority educational institution were given and orders passed wherever necessary:

Zafar Agha (Hon'ble Member: He said that NCMEI is a legal entity. It does not charge court fees. More than 50% appellant come themselves and file their appeals before our Commission. It is one of the cleanest organisation. One can download format from our website.

Taj Mohd– Whenever the minority NGOs approach the state government it should be liberal in granting permission. Regular time bound recognition and renewal should be given to such institutions. Time and again the state government does not allow these institutions to fill up posts of teachers on the ground of economy measures. He requested that the NCMEI should advise the state government that economy measures should not be followed so stringently which affects imparting of education. Norms for undertaking the staff recruitments should be made easy. The approval should be granted well within time. Retirement vacancies and death vacancies are to be filled as early as possible because shortage of staff affects quality of education. Minority institutions should not be troubled wherever excess staff is there. Staff student ratio is to be maintained at 1:30 but the Department is insisting to maintain 1:60. When they declare that some of the teachers are excess, they transfer teachers from one minority institution to other aided institutions.

Mr. Ajay Seth, Principal Secretary, Primary and Secondary Education, Karnataka– He clarified that Grant-in-aid policy by state government does not discriminate. Government does not prefer any particular institution. If economy measures are there, it is brought to the notice of all institutions. All vacancies arising up to December 2013 have been allowed to be filled up, Primary school grant-in-aid policy states that for every 40 children there can be a one teacher. In a high school, if attendance falls below 25 per class, grant-in-aid will be withdrawn. This is something which has nothing to do with a minority status. If there are no students or very few students and excess teachers, the staff ought to be reduced. The government cannot provide grant for the students not being there. A teacher has been teaching for a long time, he has to go to a school where there are students.

Member (ZA)– If minority educational institutions have problems then they should contact concerned authorities of the state government. If they do not solve their problems, then they can approach to NCMEI. A minority educational institution cannot be allowed to get away with mis-governance. If that happens then the state government has the right to intervene. Minority educational institutions are bound by rules and norms of the state government. Minority educational institutions are bound to follow the norms and rules of State.



Raju, Borthers Education Trust and representative of Jain minority community, Karnataka– Their institutions have been certified by NCMEI as Minority Institution but unfortunately some of the state agencies are not accepting their minority status and they want their institutions to reapply afresh for the state recognition. Second point was regarding IDMI grants. The state government is insisting that 20% of students should be from local area and should belong to a particular minority community.

Zafar Agha– No authority can challenge the MSC granted by the Commission. It can be challenged in High Courts only on the condition that the material condition of

the institution has changed that management is not in the hands of minorities and it is no longer primarily for the benefit of a minority community. Jains who form 0.45% of the population cannot bring 25% of students. Similarly, Christians cannot bring 30% of students when they are 2.3% of the overall population.

Sr. Lydia, Apostolic Carmel Educational Society, Mangalore– ppointment of staff is the right of the minority educational institution. There is a rule in Karnataka that for interviews for appointment of staff there has to be a government nominee i.e., DDPI. Now the approval of posts the papers go through the DDPI. The appointment right is the right of minority educational institution but for approval goes to the department.

Member (ZA)– It is not necessary for government to put up nominees for appointment.

Sr. Jeevan, Ratan Educational Society, Bangalore- It was said that some appointments were made in 2012-13 only in the high schools. In primary schools no appointments were made since last 16 years. As a result the minority institutions are having many vacancies of teachers. It is very difficult to impart quality primary education. He made an appeal to the state government to accord permission for appointment teachers in primary schools also.

Shri Ajay Seth– He said he does not agree with what was stated above and promised to find out if there is sufficient strength in that particular institution. He also promised to find a solution of the shortage of teachers due to non filling up of posts.

Sandeep Pai, JDF Foundation– He enquired why Government of Karnataka is rejecting the applications when they are applying for minority status.

Shri Ajay Seth– He mentioned that these are process related issues for which Hon'ble Chief Minister has made the announcement yesterday itself and he hoped that over the next 3 months it will be possible for Karnataka Government to put online system in place so that there is prescribed process and there is a timeline. The next question is why an application gets rejected at all. The Supreme Court has ordered that a reasonable percentage may be fixed as quota for taking the student from minority community by the minority institutions. It can be 50 %, 25% or 1 %.

The State Government in its wisdom as far as primary and secondary education is concerned has arrived that the reasonableness percentage is 25%. But whether the reasonable is really reasonable has to be decided ultimately determined by the Court. So if the quota of 25% is not fulfilled, the application of MSC will be rejected.

Mr. Zafar Agha, Hon'ble Member NCMEI hoped that participants got satisfactory answers. He concluded by saying that Chief Minister had announced certain measures which meant that the Government is fully aware of this problems of minority educational institutions and it is not just aware, it is reacting to this as well. SAAKALA is a time boundscheme and the state government is also evolving certain guidelines on its own. He hoped that participants have got satisfactory answers and if they were still not satisfied then they could give petitions on any of the discussed issues to the Commission.

CHAPTER 12 – CONCLUSION

1. Article 30 of the Constitution relating to educational rights of minorities specifically stipulates that: “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 six 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 to the Ministry of Human Resource Development (MHRD) has recommended for inclusion of linguistic minorities within the ambit of the NCMEI Act, so far the issue has not seen its 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 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.

7. 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 limited duration. It has also been held by the Madras High Court in T.K.V.T.S.S. Medical Educational & Charitable Trust vs. State of Tamil Nadu, AIR 2002 Madras 42 that minority status cannot be conferred on a minority educational institution for a particular period to be renewed periodically like a driving license. It is not open for the state government to review its earlier order conferring minority status on a minority educational institution unless it is shown that the institution concerned has suppressed any material fact while seeking minority status or there is fundamental change of circumstances warranting cancellation of the earlier order. 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 recommends 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.

8. During the year, the Commission came across several instances of encroachment on the educational rights of the minority institutions by the education departments of the state governments. In Karnataka, a large number of minority institutions mostly belonging to linguistic minorities moved the High Court of Karnataka at Bangalore on the grounds that the state education department was enforcing the provisions of Right to Education Act, 2009 on these institutions. NCMEI was also made a party by the High Court. It has been held by the Supreme Court that the Right of Children to free and compulsory Education Act, 2009 cannot be made applicable to a minority educational institution covered under Article 30(1) of the Constitution. Their lordships of the Supreme Court have held that the Act in so far it is made applicable to minority schools referred in clause (1) of Article 30 of the Constitution, is ultra vires the Constitution. High Court of Karnataka, Bangalore admitted in their judgment dated 30th April, 2014 on cases filed by five institutions that the petitioner institution cannot be compelled to admit children under the Right of Children to Free and Compulsory Education Act, 2009.
9. For the purpose of Section 10 of the National Commission for Minority Educational Institutions (NCMEI) Act 2004, all state governments are required to appoint a competent authority to grant no objection certificate for the establishment of minority educational institution. Further, for the purpose of Section 12 (B), state governments are required to appoint an authority for the grant of minority status to any education institution.
10. 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 sensitised about the rights guaranteed to minorities under Article 30(1) of the Constitution. Thus the Commission receives large number of applications from the educational institutions for grant of minority status certificate.

As per the Section 2 (ca) of NCMEI Act:

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

As per the Section 2 (ca) of NCMEI Act, “ appropriate Government” means:

- (i) In relation to an educational institution recognised for conducting its programmes of studies under any Act of Parliament, the Central Government; and
- (ii) In relation to any other educational institution recognised for conducting its programmed of studies under any State Act, a State Act a State Government in whose jurisdiction such institution is established.

In order to facilitate the above, the Commission requested all the state governments and UTs to nominate competent authorities and inform the e-mail addresses of the competent authorities/ nodal officers. Only 17 state governments and UTs have given complete information. They are Andhra Pradesh, Chhattisgarh, Goa, Gujarat, Haryana, Himachal Pradesh, Jharkhand, Maharashtra, Meghalaya, Mizoram, Nagaland, Telangana, Uttar Pradesh (only under Section 10 of the NCMEI Act), West Bengal, Andaman & Nicobar Islands, Daman and Diu , Pondicherry for NOC under Section 10 of the Act. The rest have not sent any information despite several reminders.