

**GOVERNMENT OF INDIA
NATIONAL COMMISSION FOR MINORITY
EDUCATIONAL INSTITUTIONS (NCMEI)**

Case No. 11 of 2019

In the matter of :-

**Holy Trinity Public School, Ranjit Nagar, Ettayapuram Road, Thittankulam,
Kovilpatti Taluk, Thoothukudi District, Tamil Nadu-628501**

..... **Petitioner**

V/s

**Principal Secretary, School Education Department, Government of Tamil
Nadu, Fort St. George, Secretariat, Chennai, Tamil Nadu**

..... **Respondent**

Present: Ms. Anju Joseph, Advocate for the petitioner
None for the respondent

ORDER

DATED 05.10.2021

Justice Narendra Kumar Jain, Chairman, NCMEI

1. This application has been received on 13.02.2019 by hand through Mr. Jose Abraham, Advocate of the petitioner institution for grant of Minority Status Certificate (in short 'MSC') to Holy Trinity Public School, Ranjit Nagar, Ettayapuram Road, Thittankulam, Kovilpatti Taluk, Thoothukudi District, Tamil Nadu-628501.
2. Learned counsel for the petitioner filed affidavit of Shri R. Selvaraj, S/o Shri C. Ranjit, Managing Trustee of Young Christian Educational Fellowship Trust in support of the averments made in the petition and also to prove that the beneficiaries of the petitioner institution are members of the Christian minority community.
3. Learned counsel for the petitioner has filed copy of Unique ID No. : TN/2018/0195558 of the petitioner's trust as given by the Niti Aayog Portal NGO Darpan, copy of application on dated 12.11.2018 sent to State Competent Authority i.e. Principal Secretary, School Education Department, Government of Tamil Nadu for grant of No Objection Certificate (in short 'NOC') alongwith postal receipt and its tracking report, notarized copy of Trust Deed of Young Christian Educational Fellowship Trust, original Baptism Certificates of all the managing Trustees of the Trust and notarized copy of Recognition Order No. : 056581/G1-S2/2020 dated Feb.2021 (2254 DATED 08.04.2021) issued by the Director of School Education for classes LKG to X Std. for the period from 01.01.2021 to 31.12.2023 to the petitioner institution. During the arguments, Learned Counsel for the petitioner submitted that this institution at this time is upto middle level only.
4. It is stated in the petition that on dated 12.11.2018, the petitioner institution has applied to the State Competent Authority for grant of NOC which was delivered

on 14.11.2018 to the State Competent Authority and the said application is still pending before the State Competent Authority. The State Competent Authority has not granted NOC in favour of the petitioner institution till now and also not rejected the said application and not communicated the same to the petitioner. After 90 days from the receipt of the application for grant of NOC, the petitioner has filed this application for grant of MSC to this Commission straightway as per the provisions of Section 10 and 11(f) of National Commission for Minority Educational Institutions (in short 'NCMEI') Act, 2004.

5. After service of registered notice, respondent has sent reply by post which was received by the Commission on 20.05.2019. In the reply filed by the respondent i.e. Director of School Education submitted that petitioner institution has filed application for grant of MSC. Minority Status is being granted by the State Government as per the guidelines stipulated in GO Ms. No. 648 Education, Science and Technology Department dated 03.08.94, GO Ms No. 270 Higher Education (J1) Department dated 17.06.98 and the revised guidelines given in GO Ms No. 375 School Education (X1) Department dated 12.10.98, GO Ms No. 214 School Education (X2) Department dated 03.11.2008 to the recognized Government aided and unaided educational institutions under the control of the Director of School Education. Above institution has directly sent the application for the grant of MSC to Government instead of submitting through the Concerned Departmental Officers. Therefore, school should submit the proposal for the grant of minority status to the Government through proper channel. The report of the inspecting officer has however been called for in the matter and on receipt of the proposals through proper channel necessary action will be taken by this Department for onward transmission to Government. In these circumstances, prayed that the Commission may be pleased to dismiss the petition as devoid of merit and thus render justice.
6. Learned Counsel for the petitioner filed subsequent pleadings and contended that the petitioner institution is a religious minority institution and run by Young Christian Educational Fellowship Trust which is a registered trust constituted by the members of the Christian minority community primarily for the benefit of Christian minority community. On dated 12.11.2018, the petitioner institution had submitted an application for grant of NOC under section 10 of the NCMEI Act, 2004 before the respondent. After the completion of 90 days from the date of receipt of the said application the petitioner institution applied for MSC before this Commission and this case is a fit case of intervention by this Commission. This Commission is functioning as per the NCMEI Act, 2004 read with the judicial pronouncements of the Apex Court for the purpose of declaration of MSC. Petitioner institution had applied for grant NOC whereas the reply filed by

the respondent does not even murmured a single word with regard to the receipt and further process of the said application for NOC which is duly received by the respondent. In its reply, respondent has referred a couple of GOs like 648 dated 03.08.1994, 270 dated 17.06.1998, 214 dated 03.11.2018 and 144 dated 18.09.2014 with regard to the issuance of MSC by the State of Tamil Nadu. None of Govt. orders are dealing with the issuance of NOC under section 10 of the NCMEI Act, 2004, so instant case is a fit case for interference by this Commission. Hon'ble Supreme Court in Sisters of St. Joseph of Cluny Vs. The State of West Bengal (Civil Appeal No. 3945 of 2018) decision dated 18.04.2018 in which Hon'ble Supreme Court has settled the law with regard to the applicability of Section 10 and 11 of the NCMEI Act, 2004 and in view of the said pronouncement of the Hon'ble Supreme Court the stand taken by the respondent will not survive in the eye of law and, therefore, prayed that this Commission may issue MSC to the petitioner institution in the interest of justice and equity.

9. Having heard the Learned Counsel for the petitioner we have perused the documents, pleadings of the parties and affidavit of Shri R. Selvaraj, S/o Shri C. Ranjit Managing Trustee of Young Christian Educational Fellowship Trust.
10. The petitioner institution has applied for grant of minority status certificate on the ground that the same has been established primarily for the benefit of the members of the Christian minority community and is being administered by the Young Christian Educational Fellowship Trust which is managed and run by the members of the Christian minority community. The aforesaid averments made in the petition find ample corroboration from the documentary evidence produced on behalf of the petitioner institution and the affidavit of Shri R. Selvaraj, S/o Shri C. Ranjit Managing Trustee of Young Christian Educational Fellowship Trust.
11. The respondent has not replied properly to the application submitted by the petitioner institution. Respondent has also failed to appreciate the provisions of NCMEI Act, 2004 especially under section 10 of the said Act and filed reply wrongly before this Commission. The Petitioner has not applied for grant of MSC before the State Competent Authority. Petitioner has applied for grant of NOC under section 10 of the NCMEI Act, 2004 before the State competent authority. So the guidelines of the Government of Tamil Nadu have not applied to the present petitioner institution. In the facts and circumstances of the present case the stand taken by the respondent is not tenable in the eye of law and deserves to be ignored.
12. The petitioner institution has fulfilled all the criteria for grant of MSC. The Competent Authority has failed to consider their application for grant of NOC.

To obtain minority status certificate is a constitutional right of minority educational institution. The petitioner institution is established and administered by the members of the Christian minority community. The reply filed by the respondent is clearly against the verdict of Hon'ble Apex Court in the matter of SISTERS OF ST. JOSEPH OF CLUNY V/S THE STATE OF WEST BENGAL & ORS (Civil Appeal No. 3945/2018, Judgement dated 18/04/2018), which reads as follows :-

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

13. As per the provisions of Section 10, Section 12A and Section 12B of the NCMEI Act, 2004, the person who desires to establish minority institution is to apply to the State Competent Authority for grant of NOC for the said purpose under section 10 of the NCMEI Act, 2004. The Act of 2004 also conferred powers of appeal against orders of the competent authority of State to the NCMEI under Section 12A as well as over authorities that were established by the Central Government or State Government who rejected application for grant of MSC to an educational institution under section 12B of the NCMEI Act, 2004.
14. Looking to the provisions of the NCMEI Act, 2004 and verdict of the Hon'ble Supreme Court, this Commission has both jurisdiction original as well as appellate. Any educational institution who desires to establish minority educational institution has two options. Firstly, he can apply before an authority established by the Central Government or any State Government, Union Territory as the case may be for grant of MSC to any educational institution and if above authorities rejected the application for grant of MSC, the aggrieved person may appeal against such order of the authority to this Commission under section 12B of NCMEI Act, 2004. Secondly, under section 10 of NCMEI Act, 2004 whosoever desires to establish an minority educational institution has to apply the Competent Authority of the State Government for

grant of NOC within a period of 90 days from the receipt of the application, if competent authority does not grant NOC or application has been rejected but not communicated to the petitioner it shall be deemed that NOC has granted and the petitioner can file application for grant of MSC straightaway to this Commission. Any person aggrieved by the order of refusal to grant NOC by the competent authority may prefer an appeal before this Commission under section 12A of NCMEI Act, 2004.

15. In our considered opinion educational institution can opt one course either to file application for grant of MSC before the State Competent Authority or to file grant of NOC. In the present case petitioner has applied for grant of NOC to the State Competent Authority and the said application is still pending as per the contention of the petitioner institution. The petitioner has not filed any application for grant of MSC before the State Competent Authority, so the GO's as mentioned in the reply of the respondent have no relevance to the present case.
16. The Trust Deed and all the documents produced by the petitioner institution clearly reflects that the beneficiaries of the petitioner institution are primarily members of the Christian minority community. In addition, the said facts are also stands proved from the documents and affidavit filed by the petitioner. There is no document on record to rebut the documentary evidence produced on behalf of the petitioner institution.
17. Relying on the said unrebutted evidence produced on behalf of the petitioner, we find and hold that Holy Trinity Public School, Ranjit Nagar, Ettayapuram Road, Thittankulam, Kovilpatti Taluk, Thoothukudi District, Tamil Nadu-628501 run by Young Christian Educational Fellowship Trust is eligible for grant of minority status on religious basis. The evidence also proves that the said educational institution was established with the main objective of sub-serving the interests of the Christian minority community.
18. Consequently, Holy Trinity Public School, Ranjit Nagar, Ettayapuram Road, Thittankulam, Kovilpatti Taluk, Thoothukudi District, Tamil Nadu-628501 is declared as a minority educational institution covered under Article 30 of the Constitution of India within the meaning of Section 2(g) of the National Commission for Minority Educational Institutions Act, 2004 subject to the condition that the petitioner would file an affidavit or undertaking to the fact that the petitioner institution shall not deny admission of eligible candidate of the Christian minority community subject to the eligibility of the students and availability of the accommodation in the petitioner institution and also file resolution of the General Body of the Trust to authorize Shri R. Selvaraj, S/o Shri C. Ranjit Managing Trustee of Young Christian Educational Fellowship Trust for obtaining MSC from this Commission

19. After compliance of the above order, a minority status certificate be issued accordingly.
20. In view of the above, the present petition is disposed of in accordance with this order.

Signed, pronounced and published on **Tuesday, 5th Day of October, 2021.**

**JUSTICE NARENDRA KUMAR JAIN
CHAIRMAN**

**DR. JASPAL SINGH
MEMBER**

**DR. SHAHID AKHTER
MEMBER**

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