

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

Case No. 243 of 2019

In the matter of :-

**M.M.E.S. Women's Arts and Science College, Hakeem Nagar,
Melvisharam, Waleja Taluk, District Vellore, Tamil Nadu-632509
..... Petitioner**

V/s

**Principal Secretary, Higher Education Department, Govt. of
Tamil Nadu, Fort St. George, Secretariat, Chennai, Tamil Nadu
..... Respondent**

**Present: Mr. Junais P, Advocate for the petitioner
None for the respondent**

ORDER

DATED 01.06.2022

Justice Narendra Kumar Jain, Chairman, NCMEI

1. This petition has been received on 18.04.2019 by hand through Mr. Junais P, Advocate of the petitioner institution for grant of Minority Status Certificate (in short 'MSC') to M.M.E.S. Women's Arts and Science College, Hakeem Nagar, Melvisharam, Waleja Taluk, District Vellore, Tamil Nadu-632509.
2. Learned counsel for the petitioner filed an affidavit of Mr. K. Anees Ahmed, Secretary of The Melvisharam Muslim Educational Society and the authorized representative of the applicant institution i.e. M.M.E.S. Women's Arts and Science College, Hakeem Nagar, Melvisharam, Waleja Taluk, District Vellore, Tamil Nadu-632509 in support of the averments made in the petition and also to prove that the beneficiaries of the petitioner institution are members of the Muslim minority community.
3. Learned counsel for the petitioner has filed notarized copy of Unique ID No. : TN/2010/0028633 of the petitioner's Society as given by the Niti Aayog Portal NGO Darpan, copy of application dated 17.12.2018 sent to the State Competent Authority i.e. Principal Secretary, Higher Education Department, Govt. of Tamil Nadu alongwith postal receipt and its tracking report, notarized copy of Certificate of Registration of

The Melvisharam Muslim Educational Society, notarized copy of Memorandum of Association alongwith list of founding members of the Society, notarized copy of Amended Memorandum of Association alongwith list of present members of the Society, notarized copy of Affiliation order dated 11.11.2020 issued by the Registrar (i/c), Thiruvalluvar University, Vellore to the unaided petitioner institution for the Bachelor and Master Courses from the Academic Year 2020-21 which is issued to the College for the purpose of applying to the UGC, New Delhi for inclusion of the College u/s 2(f) & 12(b) of the UGC Act, 1956 and resolution of the General Body of the Society in favour of Mr. K. Anees Ahmed, Secretary of The Melvisharam Muslim Educational Society for obtaining MSC from this Commission.

4. As per the information supplied by the unaided petitioner institution with regard to students strength, it is mentioned that out of the total 2151 students, 739 students are from the Muslim minority community, 27 students are from the Christian minority community, 4 students from Jain minority community and 1381 students are Hindus. It is relevant to mention here that out of total 83 teachers, 28 teachers are from Muslim Minority community. Hon'ble Apex Court, various High Courts as well as this Commission in case of Buckley Primary School, Cuttack, Orissa Vs. Government of Orissa (order passed by this Commission in Case No. 1320 of 2009 dated 6.7.2010) have categorically held that the percentage of admission of students from notified minority community in a minority educational institution is not an indicia for determining the minority status of such institution.
5. It is stated in the petition that on dated 17.12.2018, the petitioner institution has applied to the State Competent Authority for grant of NOC which was received by the State Competent Authority on 22.12.2018 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.

6. After service of registered notice dated 28.05.2019 and 13.03.2020, respondent has sent reply dated 12.10.2019 by post which was received by the Commission on 18.10.2019. In the reply filed on behalf of the respondent i.e. Deputy Secretary to Government, Higher Education Department submitted and denied all the averments of the petitioner institution except those which are specifically admitted in the reply. The NOC application dated 17.12.2018 under section 10 of the NCMEI Act, 2004 submitted before the State Competent Authority has not received by the respondent and the petitioner institution has approached the NCMEI directly without applying for grant of NOC under section 10 of the NCMEI Act, 2004 and falsely alleged that an application is still pending with the Higher Education Department, Govt. of Tamil Nadu and prayed that the petition filed by the petitioner institution is unsustainable and is liable to be dismissed. Therefore, the Hon'ble Commission may be pleased to dismiss the application as devoid of merits and thus render justice.
7. Learned Counsel for the petitioner filed subsequent pleadings and contended that petitioner is denying all the meritless and frivolous averments made by the respondent in their counter affidavit as the contents therein are wrong, malafide, baseless and contrary to truth. With malafide intention respondent has suppressed many material facts in their reply to drag the proceedings of this Commission. The petitioner institution is established and administered by the Muslim minority community under the registered Society namely The Melvisharam Muslim Educational Society and institution is managed by the Muslim minority community, the Society desired to get its declaration as a minority educational institution, in order to avail the rights and privileges guaranteed under Article 30(1) of the Constitution of India. As per the mandate of Hon'ble Commission, the petitioner institution approached the respondent Competent Authority on dated 17.12.2018 to grant NOC under Section 10 of the NCMEI

Act, 2004 and to seek MSC from this Commission. The said application is still pending with the competent authority of the State of Tamil Nadu. Petitioner has waited for more than 90 days to get any response from the respondent, but the competent authority did not grant the NOC under section 10 of the NCMEI Act, 2004, nor rejected the said application within the statutory period of 90 days. Therefore, after the completion of 90 days, petitioner institution on dated 18.04.2019 filed application for grant of MSC in favour of petitioner institution.

8. All the averments made in counter affidavit filed by the respondent are pertaining to the rules and guidelines laid down by the Govt. of Tamil Nadu to grant MSC and not for grant of NOC under section 10 of the NCMEI Act, 2004 and the present objections raised by the respondent is not maintainable as per the NCMEI Act, 2004.
9. Petitioner has further submitted that they fulfill all the indicia prescribed by this Commission for grant of MSC as the petitioner institution is established and administered by the Muslim minority community and primarily for the benefits of Muslim minority community and prayed that the counter affidavit filed by the respondent being devoid of any merits, disallowed, and petition filed by the petitioner for grant of MSC may be allowed and accordingly grant MSC to the petitioner institution.
10. Heard the Learned Counsel for the petitioner, perused the pleading of the parties, the documents filed by the petitioner and affidavit of Mr. K. Anees Ahmed, Secretary of The Melvisharam Muslim Educational Society.
11. 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 Muslim minority community and is being administered by The Melvisharam Muslim Educational Society which is managed and run by the members of the Muslim 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 Mr. K. Anees Ahmed, Secretary of The Melvisharam Muslim Educational Society.

12. 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 individual 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 rejects 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 been granted and the petitioner can file an 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.
13. In our considered opinion educational institution can opt one course, either to file an application for grant of MSC before the State Competent Authority or to file an application for 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 in the present case.
14. Looking to the facts that the petitioner institution has filed copy of application dated 17.12.2018 for grant of NOC alongwith post office

receipt and its tracking report. It is proved that the NOC application has been delivered to the respondent but not decided within the prescribed period of 90 days.

15. The Amended Memorandum of Association and all the documents produced by the petitioner institution clearly reflects that the beneficiaries of the petitioner institution are primarily the members of the Muslim minority community. In addition, the said facts 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.
16. Relying on the said unrebutted evidence produced on behalf of the petitioner, we find and hold that M.M.E.S. Women's Arts and Science College, Hakeem Nagar, Melvisharam, Waleja Taluk, District Vellore, Tamil Nadu-632509 run by The Melvisharam Muslim Educational Society 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 Muslim minority community.
17. Consequently, M.M.E.S. Women's Arts and Science College, Hakeem Nagar, Melvisharam, Waleja Taluk, District Vellore, Tamil Nadu-632509, which is for Bachelor and Master Courses, is declared as an unaided 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 Muslim minority community subject to the eligibility of the students and availability of the accommodation in the petitioner institution, updated Recognition / Affiliation Order issued by the State as well as concerned University to the unaided petitioner institution (College) and certified copy of NOC application submitted before the State Competent Authority. If the petitioner institution failed to comply the above order of this Commission within a period of three months from the date of order

passed by this Commission then the petition filed by the petitioner for grant of MSC will be automatically deemed to be dismissed.

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

Signed, pronounced and published on **Wednesday, 1st Day of June, 2022.**

**JUSTICE NARENDRA KUMAR JAIN
CHAIRMAN**

**DR. JASPAL SINGH
MEMBER**

**DR. SHAHID AKHTER
MEMBER**

VB