

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

Case No. 59 of 2019

In the matter of :-

**S.A. College of Education, Village Sikandra, Bhuie Road, Silao,
Nalanda, Bihar-803117**

..... **Petitioner**

V/s

**Secretary, Human Resource Development Department, Government
of Bihar**

..... **Respondent**

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

ORDER

DATED 26.04.2022

Justice Narendra Kumar Jain, Chairman, NCMEI

1. This petition has been received on 07.03.2019 by hand through Shri Salman Akhter (Engineer, NRI) for grant of Minority Status Certificate (in short 'MSC') to S.A. College of Education, Village Sikandra, Bhuie Road, Silao, Nalanda, Bihar-803117.
2. The petitioner institution filed an affidavit of Shri Salman Akhtar(Engineer, NRI), Secretary of Nalanda Minority Educational and Welfare 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 Muslim minority community and notarized copy of application dated 11.11.2018 sent to State Competent Authority by hand i.e. Secretary, Human Resource Development Department, Government of Bihar for grant of No Objection Certificate (in short 'NOC'). It transpires from the record that the date of NOC application mentioned in MSC application mentioned as 22.11.2018.
3. Learned counsel for the petitioner has filed notarized copy of Unique ID No. : BR/2018/0195670 of the petitioner's Trust as given by the Niti Aayog Portal NGO Darpan, notarized copy of Trust Deed dated 17.04.2009 of Nalanda Minority Educational and Welfare Trust, notarized copy of Recognition Order dated 04.08.2012 issued by the Regional Director, National Council for Teacher Education (NCTE) from the Academic Session 2012-13 for B.Ed. Course of Secondary (Level) of one year

duration and Recognition Order dated 02.03.2013 issued by the Vice Chancellor, Magadh Vishwavidyalaya, Bodhgaya for the Academic Session 2012-13 for B.Ed. Course.

4. As per the information supplied by the petitioner institution with regard to student strength, it is mentioned that out of the total 150 students, 66 students are from the Muslim minority community, 11 students are from Buddhist Minority Community and 73 students are Hindus. It is relevant to mention here that out of total 16 teachers, 9 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 the 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 22.11.2018, the petitioner institution has applied to the State Competent Authority for grant of NOC which was received by the State Competent Authority on 22.11.2018 as per the application dated 11.11.2018 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. Despite service of registered notice dated 18.04.2019 and 18.11.2021, no reply / response has been received from the respondent. Thereafter in the facts and circumstances of the case, Commission deemed fit and proper that physical inspection report alongwith recommendation may be obtained from the Committee constituted by this Commission for issuance of MSC to the petitioner institution vide order dated 11.01.2022, but despite notice by post dated 13.01.2022 and reminders by post letters and emails dated 14.03.2022 and 06.04.2022, no reply / response is received from the Committee constituted by this Commission. Pendency of the

said application for grant of NOC and inspection report from the Committee members for such a disproportionately long period clearly indicates Government's disinclination to grant NOC to the petitioner institution and sending physical inspection report by the Committee members. Petitioner's rights to get MSC cannot be kept under suspended animation. In this view of the matter, it is a fit case for intervention by this Commission.

7. Heard the Learned Counsel for the petitioner, perused the pleading of petitioner institution, the documents filed by the petitioner and affidavit of Shri Salman Akhtar(Engineer, NRI), Secretary of Nalanda Minority Educational and Welfare Trust.
8. 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 Nalanda Minority Educational and Welfare Trust 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 Shri Salman Akhtar(Engineer, NRI), Secretary of Nalanda Minority Educational and Welfare Trust.
9. 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 Muslim 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.
10. Relying on the said unrebutted evidence produced on behalf of the petitioner, we find and hold that S.A. College of Education, Village Sikandra, Bhuie Road, Silao, Nalanda, Bihar-803117 run by Nalanda Minority Educational and Welfare 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 Muslim minority community.
11. Consequently, S.A. College of Education, Village Sikandra, Bhuie Road, Silao, Nalanda, Bihar-803117, which is for B.Ed. Course of Secondary (Level) of one year duration, 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 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 concerned University to the unaided petitioner institution, resolution of the General Body of the Trust in favour of Shri Salman Akhtar(Engineer, NRI), Secretary of Nalanda Minority Educational and Welfare Trust for obtaining MSC from this Commission and clarification about the NOC application dated 11.11.2018 mentioned in MSC application as 22.11.2018. 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.

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

Signed, pronounced and published on **Tuesday, 26th Day of April, 2022.**

**JUSTICE NARENDRA KUMAR JAIN
CHAIRMAN**

**DR. JASPAL SINGH
MEMBER**

**DR. SHAHID AKHTER
MEMBER**

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