

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

**Case No. 333 of 2019**

**In the matter of :-**

**Makhdam Bakhsh Memorial Uchar Madhyamik Vidyalaya,  
Uttarwahini, Chanpatia, West Champaran District, Bihar-845449  
..... Petitioner**

**V/s**

**Secretary, Human Resource Development Department,  
Government of Bihar, Secretariat Patna, Bihar  
..... Respondent**

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

**ORDER**

**DATED 17.11.2021**

**Justice Narendra Kumar Jain, Chairman, NCMEI**

1. This application has been received on 13.05.2019 by hand through Mr. Junais P, Advocate of the petitioner institution for grant of Minority Status Certificate (in short 'MSC') to Makhdam Bakhsh Memorial Uchar Madhyamik Vidyalaya, Uttarwahini, Chanpatia, West Champaran District, Bihar-845449.
2. Learned counsel for the petitioner filed affidavit of Shri Sheikh Nazarul Haque, Secretary, Makhdam Bakhsh Memorial Educational Trust, Uttarwahini, Chanpatia, West Champaran District, Bihar-845449 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. : BR/2019/0222782 of the petitioner's trust as given by the Niti Aayog Portal NGO Darpan, notarized copy of application dated 23.01.2019 sent to State Competent Authority i.e. Secretary, Human Resource Development Department, Govt. of Bihar for grant of No Objection Certificate (in short 'NOC') alongwith postal receipt and its tracking report, notarized copy of Trust Deed dated 31.08.2013 of

Makhdum Bakhash Memorial Educational Trust, notarized copy of Supplementary / Amended Trust Deed dated 30.04.2019 and notarized copy of recognition letter dated 08.10.2018 issued by Secretary, Bihar School Examination Board, Patna to the petitioner institution for the Senior Secondary level for the Academic Session 2018-20.

4. It is stated in the petition that on dated 23.01.2019, the petitioner institution has applied to the State Competent Authority for grant of NOC which was delivered on 25.01.2019 to the State Competent Authority i.e. Secretary, Human Resource Development Department, Government of Bihar 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 dated 12.06.2019 and 18.12.2020, none appeared on behalf of the respondent. Hence the case is proceeded ex-parte against the respondent.
6. Having heard the Learned Counsel for the petitioner we have perused the documents, pleadings of the parties and affidavit of Shri Sheikh Nazarul Haque, Secretary, Makhdum Bakhash Memorial Educational Trust.
7. 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 Makhdum Bakhash Memorial Educational 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 Sheikh Nazarul Haque, Secretary, Makhdum Bakhash Memorial Educational Trust.

8. As per the information supplied by the petitioner institution is that out of total 404 students, 235 students are from the Muslim minority community and 169 are Hindus. 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.
9. 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 Muslim minority community.
10. The Supplementary / Amended 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.
11. Relying on the said unrebutted evidence produced on behalf of the petitioner, we find and hold that Makhdum Bakhash Memorial Uchar Madhyamik Vidyalaya, Uttarwahini, Chanpatia, West Champaran District, Bihar-845449 run by Makhdum Bakhash Memorial Educational 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.

12. Consequently, Makhdum Bakhsh Memorial Uchar Madhyamik Vidyalaya, Uttarwahini, Chanpatia, West Champaran District, Bihar-845449 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, resolution of the General Body of the Trust to authorize Shri Sheikh Nazarul Haque, Secretary, Makhdum Bakhsh Memorial Educational Trust for obtaining MSC from this Commission and also file updated recognition / affiliation order of the petitioner institution.
13. After compliance of the above order, a minority status certificate be issued accordingly.
14. In view of the above, the present petition is disposed of in accordance with this order.

Signed, pronounced and published on **Wednesday, 17<sup>th</sup> Day of November, 2021.**

**JUSTICE NARENDRA KUMAR JAIN  
CHAIRMAN**

**DR. JASPAL SINGH  
MEMBER**

**DR. SHAHID AKHTER  
MEMBER**