

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

**Case No. 271 of 2019**

**In the matter of :-**

**Boon Public School, Kallar, Malakkalu P.O., District Kasargode,  
Kerala-671532**

..... **Petitioner**

**V/s**

**Secretary, General Education Department, Govt. of Kerala,  
Thiruvananthapuram, Kerala**

..... **Respondent**

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

**ORDER**

**DATED 25.05.2022**

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

1. This petition has been received on 30.04.2019 by hand through Mr. Junais P., Advocate of the petitioner institution for grant of Minority Status Certificate (in short 'MSC') to Boon Public School, Kallar, Malakkalu P.O., District Kasargode, Kerala-671532.
2. Learned counsel for the petitioner filed an affidavit of Mr. Subeer P., Chairman, Al-Falah Eduational and Charitable 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.
3. Learned counsel for the petitioner has filed notarized copy of Unique ID No. : KL/2018/0197672 of the petitioner's Trust as given by the Niti Aayog Portal NGO Darpan, copy of application dated 20.11.2018 sent to State Competent Authority i.e. Secretary, General Education Department, Govt. of Kerala, Thiruvananthapuram, Kerala for grant of No Objection Certificate (in short 'NOC') alongwith postal receipt and its tracking report, notarized copy of Trust Deed dated 23.04.2013 of Al-Falah Eduational and Charitable Trust, Supplementary Trust Deed dated 15.04.2022, notarized copy of Recognition Order dated 14.05.2015 issued by the Additional Chief Secretary, Kerala Govt. to the unaided petitioner institution from the Year 2015-16 for Class 1<sup>st</sup> to 4<sup>th</sup> and resolution of the General Body of the Trust in favour of Mr. Subeer P.,

Chairman, Al-Falah Eduational and Charitable Trust 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 341 students, 290 students are from the Muslim minority community, 10 students are from Christian minority community and 41 students are Hindus. It is relevant to mention here that out of total 17 teachers, 14 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 20.11.2018, the petitioner institution has applied to the State Competent Authority for grant of NOC which was received by the State Competent Authority on 24.11.2018 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 04.06.2019, no reply 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 01.11.2021, despite service of notice through post and email to the physical inspection committee dated 08.12.2021 and 29.03.2022, no reply has been received from the Physical Inspection Committee Members. 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 oldest case of this Commission. 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 Mr. Subeer P., Chairman, Al-Falah Eduational and Charitable 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 Al-Falah Eduational and Charitable 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 Mr. Subeer P., Chairman, Al-Falah Eduational and Charitable Trust.
9. The Supplementary 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 un rebutted evidence produced on behalf of the petitioner, we find and hold that Boon Public School, Kallar, Malakkalu P.O., District Kasargode, Kerala-671532 run by Al-Falah Eduational and Charitable 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, Boon Public School, Kallar, Malakkalu P.O., District Kasargode, Kerala-671532, which is a Primary School for class 1<sup>st</sup> to 4<sup>th</sup>, 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 and proper recognition order of the State Authority in favour of the petitioner institution. 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 **Wednesday, 25<sup>th</sup> Day of May, 2022.**

**JUSTICE NARENDRA KUMAR JAIN  
CHAIRMAN**

**DR. JASPAL SINGH  
MEMBER**

**DR. SHAHID AKHTER  
MEMBER**

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