

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

Case No. 123 of 2019

In the matter of :-

**Haji Mohd. Ayub Memorial Inter College, Vill. And Post Naidhi,
Chahaniya, District Chandauli, Uttar Pradesh**

..... **Petitioner**

V/s

**Principal Secretary, Higher Education, Department of Education,
Govt. of Uttar Pradesh, 11, Naveen Bhawan Secretariat, Lucknow,
Uttar Pradesh**

..... **Respondent**

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

ORDER

DATED 24.05.2022

Justice Narendra Kumar Jain, Chairman, NCMEI

1. This petition has been received on 18.03.2019 by hand through Mr. Junais P., Advocate of the petitioner institution for grant of Minority Status Certificate (in short 'MSC') to Haji Mohd. Ayub Memorial Inter College, Vill. And Post Naidhi, Chahaniya, District Chandauli, Uttar Pradesh.
2. Learned Counsel for the petitioner filed an affidavit of Mr. Dilshad Ahmad, Manager as well as Secretary of Shah Akaram Education Society 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. : UP/2017/0162187 of the petitioner's Society as given by the Niti Aayog Portal NGO Darpan, copy of NOC application dated 30.11.2018 sent to the State Competent Authority i.e. Principal Secretary, Higher Education, Department of Education, Govt. of Uttar Pradesh alongwith postal receipt and its tracking report, notarized copy of Certificate of Registration of Shah Akaram Education 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 Recognition Order dated 13.08.2010 issued by Regional Secretary, Secondary Education Council, Varanasi issued to the unaided petitioner from the year 2012 for Intermediate Examination and resolution of the General Body of the Society in favour of Mr. Dilshad Ahmad, Manager as well as Secretary of Shah Akaram Education 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 1185 students, 380 students are from the Muslim minority community and 805 students are Hindus. It is relevant to mention here that out of total 20 teachers, 8 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 30.11.2018, the petitioner institution has applied to the State Competent Authority for grant of NOC which was received by the State Competent Authority on 03.12.2018 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. Despite service of registered notice dated 14.05.2019, 31.01.2020 and 25.08.2020, 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 15.12.2021, after service of notice to the physical inspection committee dated 17.12.2021 and 03.02.2022, District Social Welfare Officer, Chandauli sent the physical inspection committee report vide letter dated 14.03.2022 which was received in the Commission's office on dated 21.03.2022 wherein they have not mentioned any negative / adverse remarks to grant MSC to the petitioner institution.

7. Heard the Learned Counsel for the petitioner, perused the pleading of petitioner institution, the documents filed by the petitioner and affidavit of Mr. Dilshad Ahmad, Manager as well as Secretary of Shah Akaram Education Society.
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 Shah Akaram Education 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. Dilshad Ahmad, Manager as well as Secretary of Shah Akaram Education Society.
9. 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 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 Haji Mohd. Ayub Memorial Inter College, Vill. And Post Naidhi, Chahaniya, District Chandauli, Uttar Pradesh run by Shah Akaram Education 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.

11. Consequently, Haji Mohd. Ayub Memorial Inter College, Vill. And Post Naidhi, Chahaniya, District Chandauli, Uttar Pradesh, which is for Intermediate Examination, 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 Board / CBSE to the unaided petitioner institution and also to file Amended Memorandum of Association in which clearly mentioned the beneficiary clause that the petitioner institution is primarily for the benefits of Muslim Minority Community. 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, 24th Day of May, 2022.**

**JUSTICE NARENDRA KUMAR JAIN
CHAIRMAN**

**DR. JASPAL SINGH
MEMBER**

**DR. SHAHID AKHTER
MEMBER**

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