

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

Case No. 162 of 2019

In the matter of :-

**Bab-E-Ilm Oriental Higher Secondary School, Moammadpur,
Shakurabad, Mughalsarai, District Chandauli, Uttar Pradesh-
232101**

..... **Petitioner**

V/s

**The Principal Secretary, Higher Education, Department of
Education, Govt. of Uttar Pradesh**

..... **Respondent**

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

ORDER

DATED 10.05.2022

Justice Narendra Kumar Jain, Chairman, NCMEI

1. This petition has been received on 03.04.2019 by hand through Mr. Junais P, Advocate of the petitioner institution for grant of Minority Status Certificate (in short 'MSC') to Bab-E-Ilm Oriental Higher Secondary School, Moammadpur, Shakurabad, Mughalsarai, District Chandauli, Uttar Pradesh-232101.
2. Learned counsel for the petitioner filed an affidavit of Mr. Naushad Ahmad Siddiqui, Secretary of Bab-E-Ilm Welfare Educational Society and the authorized representative of the applicant institution i.e. Bab-E-Ilm Oriental Higher Secondary School, Moammadpur, Shakurabad, Mughalsarai, District Chandauli, Uttar Pradesh-232101 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/2018/0212382 of the petitioner's Society as given by the Niti Aayog Portal NGO Darpan, copy of application dated 01.11.2018 sent to State Competent Authority i.e. The Principal Secretary, Higher Education, Department of Education,

Govt. of Uttar Pradesh for grant of No Objection Certificate (in short 'NOC') alongwith postal receipt and its tracking report, notarized copy of Certificate of Registration of Bab-E-Ilm Welfare Educational Society, certified copy of Memorandum of Association alongwith list of founding members of the Society, certified copy of Amended Memorandum of Association alongwith list of present members of the Society, notarized copy of permanent Recognition Order dated 31.07.2014 issued by Regional Secretary, Secondary Education Council, Varanasi to the unaided petitioner institution for High School, Class 6th to 10th and resolution of the General Body of the Society in favour of Mr. Naushad Ahmad Siddiqui, Secretary of Bab-E-Ilm Welfare 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 495 students, 395 students are from the Muslim minority community and 100 students are Hindus. It is relevant to mention here that out of total 14 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 01.11.2018, the petitioner institution has applied to the State Competent Authority for grant of NOC which was received by the State Competent Authority on 05.11.2018 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. After service of registered notice dated 20.05.2019 and 27.02.2020, respondent has sent letter dated 31.03.2021 which was received in the Commission's office on 21.05.2021 stating that the petitioner institution has not applied as per Government Order No. 1615/15-7-94-12 (22)/1979 dated 28.04.1994, 06.10.1994 and 22.02.1995 as per the law and settled procedure for grant of MSC and NOC. The petitioner institution has filed application for grant of MSC straightway to the NCMEI which is not maintainable as per law and prayed to dismiss the application for grant of MSC.
7. Heard the Learned Counsel for the petitioner, perused the pleading of petitioner institution, the documents filed by the petitioner and affidavit of Mr. Naushad Ahmad Siddiqui, Secretary of Bab-E-Ilm Welfare Educational Society.
8. We have perused the pleading of the parties. The petitioner institution is established and administered by the Muslim minority Community. In order to avail the rights and privileges guaranteed under Article 30(1) of the Constitution of India filed an application for grant of NOC before the State Competent Authority and as per the documents produced by the petitioner institution that application dated 01.11.2018 was delivered to the respondent on 05.11.2018, proof of delivery is filed by the petitioner institution. So the contention of the respondent that petitioner has not applied for grant of NOC before the respondent is not correct as per the documents filed by the petitioner institution.
9. As per the petitioner institution application for grant of NOC is still pending with the respondent. 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 03.04.2019 filed application for grant of MSC in favour of the petitioner institution before this Commission.

10. 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 Bab-E-Ilm Welfare 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. Naushad Ahmad Siddiqui, Secretary of Bab-E-Ilm Welfare Educational Society.
11. 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.
12. Relying on the said unrebutted evidence produced on behalf of the petitioner, we find and hold that Bab-E-Ilm Oriental Higher Secondary School, Moammadpur, Shakurabad, Mughalsarai, District Chandauli, Uttar Pradesh-232101 run by Bab-E-Ilm Welfare 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.
13. Consequently, Bab-E-Ilm Oriental Higher Secondary School, Moammadpur, Shakurabad, Mughalsarai, District Chandauli, Uttar Pradesh-232101, which is for High School, Class 6th to 10th, 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 updated recognition / affiliation order issued by the State Board / CBSE to the unaided 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.

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

Signed, pronounced and published on **Tuesday, 10^h Day of May, 2022.**

**JUSTICE NARENDRA KUMAR JAIN
CHAIRMAN**

**DR. JASPAL SINGH
MEMBER**

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