

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

Case No. 373 of 2019

In the matter of :-

**St. Ann's School, Khanapur, Sagar Road, Manchal mandal,
District Ranga Reddy, Telangana-501506**

..... Petitioner

V/s

**Secretary, Minorities Welfare Department, D-Block, Ground
Floor, Telagana Secretariat, Hyderabad-500022**

..... Respondent

**Present: Mr. Jose Abraham, 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 07.05.2019 by hand through Mr. Jose Abraham, Advocate of the petitioner institution for grant of Minority Status Certificate (in short 'MSC') to St. Ann's School, Khanapur, Sagar Road, Manchal mandal, District Ranga Reddy, Telangana-501506.
2. Learned counsel for the petitioner filed an affidavit of Sr. Jesintha Mariappa, President of The Sisters of St. Ann of Providence Central Province in support of the averments made in the petition and also to prove that the beneficiaries of the petitioner institution are members of the Christian minority community.
3. Learned counsel for the petitioner has filed copy of Unique ID No. : TS/2017/0156611 of the petitioner's Society as given by the Niti Aayog Portal NGO Darpan, copy of application dated 04.01.2019 sent to the State Competent Authority i.e. Secretary, Minorities Welfare Department, Govt. of Telangana alongwith postal receipt and its tracking report, notarized copy of Certificate of Registration of The Sisters of St. Ann of Providence Central Province, 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 19.03.2013 issued by District Educational Officer, R.R. District, Hyderabad to the unaided petitioner institution from the Academic Years 2013-14 to 2022-23 for class 1st to 5th and resolution of the General Body of the Society in favour of Sr. Jesintha Mariappa, President of The Sisters of St. Ann of Providence Central Province for obtaining MSC from this Commission. Learned Counsel for the petitioner filed an Affidavit of Sr. Jesintha Mariappa, President of The Sisters of St. Ann of Providence Central Province stating that the Declaration of MSC application, NOC application and Affidavit, Vakalatnama signed by her. It transpires from the record that there is some difference in number of students as mentioned in application for grant of MSC and Physical Inspection Committee Report. In compliance of order dated 18.05.2022 of this Commission, the petitioner institution has filed the amended petition for grant of MSC before this Commission. As per the amended petitioner for grant of MSC the school has now updated from Primary to Secondary School (1st to 10th Std.).

4. As per the information supplied by the unaided petitioner institution as mentioned in amended petition for grant of MSC with regard to students strength, it is mentioned that out of the total 387 students, 14 students are from the Christian minority community, 8 students are from the Muslim minority community and 365 students are Hindus. It is relevant to mention here that out of total 18 teachers, 9 teachers are from Christian 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 this 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 04.01.2019, the petitioner institution has applied to the State Competent Authority for grant of NOC which was received by the State Competent Authority on

05.01.2019 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 11.07.2019 and 21.04.2022, respondent has sent reply dated 30.04.2021 by post which was received by the Commission 10.05.2022. In the reply filed by the respondent it is mentioned that the "request for issue of No Objection Certificate to their educational institution under Section 10 of the NCMEI Act, 2004, to enable them to seek the MSC from NCMEI is not feasible for consideration and advise them to submit their applications to the Govt. for the grant of MSC as per the guidelines in GO ms No. 1, Min. Wel. (M&R) Department, 16.01.2004 and submitted that on receiving the proposal from the petitioner institution for issue of MSC to their institutions, action will be taken in the matter as per rules.
7. Despite service of registered notice dated 11.07.2019, 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 26.11.2020, after service of notice to the physical inspection committee dated 01.12.2020 and 27.08.2021, District Educational Officer, Rangareddy District, Telangana sent the physical inspection committee report vide letter dated 28.08.2021 which was received in the Commission's office on dated 13.09.2021 wherein they have not mentioned any negative / adverse remarks to grant MSC to the petitioner institution.

9. Heard the Learned Counsel for the petitioner, perused the pleading of the parties, the documents filed by the petitioner and affidavit of Sr. Jesintha Mariappa, President of The Sisters of St. Ann of Providence Central Province.
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 Christian minority community and is being administered by The Sisters of St. Ann of Providence Central Province which is managed and run by the members of the Christian 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 Sr. Jesintha Mariappa, President of The Sisters of St. Ann of Providence Central Province.
11. The respondent has not replied properly to the application submitted by the petitioner institution. Respondent has also failed to appreciate the provisions of NCMEI Act, 2004 especially under section 10 of the said Act and filed reply wrongly before this Commission. The Petitioner has not applied for grant of MSC before the State Competent Authority. Petitioner has applied for grant of NOC under section 10 of the NCMEI Act, 2004 before the State competent authority. So the guidelines of the Government of Telangana have is not applied to the present petitioner institution. In the facts and circumstances of the present case the stand taken by the respondent is not tenable in the eye of law and deserves to be ignored.
12. 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 Christian minority community. The reply filed by the respondent is clearly against the verdict of Hon'ble Apex Court in the matter of SISTERS OF ST. JOSEPH OF CLUNY V/S THE STATE OF WEST BENGAL &

ORS (Civil Appeal No. 3945/2018, Judgement dated 18/04/2018), which reads as follows :-

“However, Section 10(1), which was introduced at the same time as Section 11(f) by the Amendment Act of 2006, carves out one facet of the aforesaid power contained in Section 11(f), namely the grant of a no objection certificate to a minority educational institution at its inception. Thus, any person who desires to establish a minority educational institution after the Amendment Act of 2006 came into force, must apply only to the competent authority for the grant of a no objection certificate for the said purpose. It is a little difficult to subscribe to Shri Hedge’s argument that the said powers are concurrent. Harmoniously read, all applications, for the establishment of a minority educational institution after the Amendment Act of 2006 must go only to the competent authority set up under the statute. On the other hand, for the declaration of its status a minority educational institution at any state post establishment, the NCMEI would have the power to decide the question and declare such institution’s minority status.”

13. As per the provisions of Section 10, Section 12A and Section 12B of the NCMEI Act, 2004, the person who desires to establish minority institution, is to apply to the State Competent Authority for grant of NOC for the said purpose under section 10 of the NCMEI Act, 2004. The Act of 2004 also conferred powers of appeal against the orders of the competent authority of the State to the NCMEI under Section 12A as well as over the authorities that were established by the Central Government or State Government which reject the application for grant of MSC to an educational institution under section 12B of the NCMEI Act, 2004.
14. Looking to the provisions of the NCMEI Act, 2004 and verdict of the Hon’ble Supreme Court, this Commission has both jurisdiction original as well as appellate. Any individual institution who desires to establish minority educational institution has two options. Firstly, he can apply before an authority established by the Central Government or any State Government, Union Territory as the case may be for grant of MSC to any educational institution and if above authorities rejects the application for grant of MSC, the aggrieved person may appeal against such order of the authority to this

Commission under section 12B of NCMEI Act, 2004. Secondly, under section 10 of NCMEI Act, 2004 whosoever desires to establish an minority educational institution has to apply the Competent Authority of the State Government for grant of NOC within a period of 90 days from the receipt of the application, if competent authority does not grant NOC or application has been rejected but not communicated to the petitioner it shall be deemed that NOC has been granted and the petitioner can file an application for grant of MSC straightaway to this Commission. Any person aggrieved by the order of refusal to grant NOC by the competent authority may prefer an appeal before this Commission under section 12A of NCMEI Act, 2004.

15. In our considered opinion educational institution can opt one course, either to file an application for grant of MSC before the State Competent Authority or to file an application for grant of NOC. In the present case petitioner has applied for grant of NOC to the State Competent Authority and the said application is still pending as per the contention of the petitioner institution. The petitioner has not filed any application for grant of MSC before the State Competent Authority, so the GO's as mentioned in the reply of the respondent have no relevance in the present case.
16. 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 the members of the Christian minority community. In addition, the said facts 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.
17. Relying on the said un rebutted evidence produced on behalf of the petitioner, we find and hold that St. Ann's School, Khanapur, Sagar Road, Manchal mandal, District Ranga Reddy, Telangana-501506 run by The Sisters of St. Ann of Providence Central Province 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 Christian minority community.

18. Consequently, St. Ann's School, Khanapur, Sagar Road, Manchal mandal, District Ranga Reddy, Telangana-501506, which is for 1st to 10th Std., 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 Christian 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.
19. After compliance of the above order, a minority status certificate be issued accordingly.
20. In view of the above, the present petition is disposed of in accordance with this order.

Signed, pronounced and published on **Wednesday, 25th Day of May, 2022.**

**JUSTICE NARENDRA KUMAR JAIN
CHAIRMAN**

**DR. JASPAL SINGH
MEMBER**

**DR. SHAHID AKHTER
MEMBER**

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