

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

Case No. 86 of 2019

In the matter of :-

**Shri Pratap Bhanu Jain Prathamik Vidhyalaya, Shahpur, Khurd,
Akhaipur, Hathras, District Hathras, Uttar Pradesh-204101**
..... **Petitioner**

V/s

**Principal Secretary Higher Education, Department of Education,
Government of Uttar Pradesh**
..... **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 12.03.2019 by hand through Mr. Junais P, Advocate of the petitioner institution for grant of Minority Status Certificate (in short 'MSC') to Shri Pratap Bhanu Jain Prathamik Vidhyalaya, Shahpur, Khurd, Akhaipur, Hathras, District Hathras, Uttar Pradesh-204101.
2. Learned counsel for the petitioner filed affidavit of Shri Ashish Kumar Jain, Secretary of Shri Pratap Bhanu Jain Shiksha Samiti and the authorized representative of the applicant institution i.e. Shri Pratap Bhanu Jain Prathamik Vidhyalaya, Shahpur, Khurd, Akhaipur, Hathras, District Hathras, Uttar Pradesh-204101 in support of the averments made in the petition and also to prove that the beneficiaries of the petitioner institution are members of the Jain minority community.
3. Learned counsel for the petitioner has filed notarized copy of Unique ID No. : UP/2019/0228969 of the petitioner's society as given by the Niti Aayog Portal NGO Darpan, copy of application dated 22.11.2018 sent to State Competent Authority i.e. Principal Secretary Higher Education, Department of Education, Government 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 Shri Pratap Bhanu Jain Shiksha Samiti, 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 letter no. recognition/4204-06/2006-07 dated 15.09.2006 issued by District Basic Education Officer, Mahamayanagar to the unaided petitioner institution for class 1st to 5th (Hindi Medium).

4. It is stated in the petition that on dated 22.11.2018, the petitioner institution has applied to the State Competent Authority for grant of NOC which was delivered on 24.11.2018 to the State Competent Authority 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 07.05.2019, 24.01.2020 and 10.02.2021, respondent has sent reply dated 06.07.2021 by post which was received by the Commission on 12.07.2021 wherein the NOC application of the petitioner institution is forwarded to Upper Chief Secretary, Secondary Education Department, UP for further necessary action but till date we have not yet received any reply from them.
6. Having heard the Learned Counsel for the petitioner we have perused the documents, pleadings of the parties and affidavit of Shri Ashish Kumar Jain, Secretary of Shri Pratap Bhanu Jain Shiksha Samiti.
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 Jain minority community and is being administered by the Shri Pratap Bhanu Jain Shiksha Samiti which is managed and run by the members of the Jain 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 Ashish Kumar Jain, Secretary of Shri Pratap Bhanu Jain Shiksha Samiti.

8. As per the information supplied by the petitioner institution is that out of total 102 students, 20 students are from the Jain minority community, 45 are from Muslim minority community and 37 are Hindus. Population of Jain minority community in the State of Uttar Pradesh as per the census of 2011 is only 0.11%. 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 Jain minority community.
10. 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 Jain 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 Shri Pratap Bhanu Jain Prathamik Vidhyalaya, Shahpur, Khurd, Akhaipur, Hathras, District Hathras, Uttar Pradesh-204101 run by Shri Pratap Bhanu Jain Shiksha Samiti 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 Jain minority community.
12. Consequently, Shri Pratap Bhanu Jain Prathamik Vidhyalaya, Shahpur, Khurd, Akhaipur, Hathras, District Hathras, Uttar Pradesh-204101 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 Jain minority community subject to the eligibility of the students and availability of the accommodation in the petitioner institution, updated recognition/affiliation order of the petitioner institution and also file resolution of the General Body of the Society to authorize Shri Ashish Kumar Jain, Secretary of Shri Pratap Bhanu Jain Shiksha Samiti for obtaining MSC from this Commission.

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, 17th Day of November, 2021.**

**JUSTICE NARENDRA KUMAR JAIN
CHAIRMAN**

**DR. JASPAL SINGH
MEMBER**

**DR. SHAHID AKHTER
MEMBER**

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