

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

Case No. 128 of 2019

In the matter of :-

**Surbhi College of Education, Khasra No. 196/1/2, Village
Gadhmurra, Bhopal, District Bhopal, Madhya Pradesh-462010**

..... Petitioner

V/s

**Secretary, Backward Classes and Minority Welfare Department,
Government of Madhya Pradesh**

..... Respondent

**Present: Mr. Iftexhar Ahmed, Advocate for the petitioner
None for the respondent**

ORDER

DATED 07.12.2021

Justice Narendra Kumar Jain, Chairman, NCMEI

1. This application has been received on 18.03.2019 by post for grant of Minority Status Certificate (in short 'MSC') to Surbhi College of Education, Khasra No. 196/1/2, Village Gadhmurra, Bhopal, District Bhopal, Madhya Pradesh-462010.
2. The petitioner institution has filed an affidavit of Shri Muzammil Hasan, S/o Shri Manzoor Hasan, President of Aasrariya Alpasankhyak Education Chikitsa Avam Welfare Society alongwith application for grant of MSC in support of the averments made in the petition and also to prove that the beneficiaries of the petitioner institution are primarily members of the Muslim minority community. The petitioner institution has also filed copy of Unique ID No. : MP/2017/0179175 of the petitioner's Society as given by the Niti Aayog Portal NGO Darpan
3. Learned Counsel for the petitioner has filed copy of application dated 23.10.2018 sent to State Competent Authority i.e. Secretary, Backward Classes and Minority Welfare Department, Government of Madhya Pradesh for grant of No Objection Certificate (in short 'NOC'), notarized copy of Registration Certificate of Aasrariya

Alpasankhyak Education Chikitsa Avam Welfare 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 from 10.03.2020 to 09.03.2023, notarized copy of Recognition Order dated 14.07.2017 issued by Regional Director, National Council for Teacher Education (in short 'NCTE'), to the unaided petitioner institution from the Academic Session 2018-19 for D.El.Ed. Course, Affiliation Order dated 22.06.2021 issued by Deputy Secretary, Secondary Education Council, Bhopal, MP to the unaided petitioner institution for the Academic Session 2021-22 & 2022-23 for Diploma in Education and resolution of the General Body of the Society to authorize Shri Muzammil Hasan, President of Aasrariya Alpasankhyak Education Chikitsa Avam Welfare Society for obtaining MSC from this Commission. Learned Counsel for the petitioner also submitted an affidavit of Shri Muzammil Hasan, President of Aasrariya Alpasankhyak Education Chikitsa Avam Welfare Society stating that all admissions in the petitioner institution are done through online counseling of MP Govt.. Due to online counseling of MP Govt., it is the responsibility of the petitioner institution to admit students of all communities whichever is available.

4. As per the information supplied by the petitioner institution with regard to student strength, it is mentioned that out of the total 100 students, only 09 students are from the Muslim minority community, 03 students are from the Sikh Minority Community, 08 students are from Jain Minority Community and 80 students are Hindus. It is relevant to mention here that out of total 08 teachers, 02 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 23.10.2018, the petitioner institution has applied to the State Competent Authority for grant of NOC which was received by the State Competent Authority on 23.10.2018 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 13.05.2019, The Deputy Director, Backward Classes and Minority Welfare, State of MP sent a letter no. : ekU;rk@ 2019/4308 dated 23.09.2019 stating that the case of Surbhi College of Education, Bhopal, MP is under process for grant of NOC and they will accept / obey the decision of the Commission. 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 04.02.2020 but despite notice by registered post dated 13.02.2020 and reminders by post letters dated 15.01.2021 and 09.09.2021, no reply / response is received from the Committee constituted by this Commission. 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 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 the petitioner institution, the documents filed by the petitioner and

affidavit of Shri Muzammil Hasan, President of Aasrariya Alpasankhyak Education Chikitsa Avam Welfare 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 Aasrariya Alpasankhyak Education Chikitsa Avam Welfare 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 Shri Muzammil Hasan, President of Aasrariya Alpasankhyak Education Chikitsa Avam Welfare 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 Surbhi College of Education, Khasra No. 196/1/2, Village Gadhmurra, Bhopal, District Bhopal, Madhya Pradesh-462010 run by Aasrariya Alpasankhyak Education Chikitsa Avam Welfare 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, Surbhi College of Education, Khasra No. 196/1/2, Village Gadhmurra, Bhopal, District Bhopal, Madhya Pradesh-462010 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 Muslim minority community subject to the eligibility of the students and availability of the accommodation in the petitioner institution.

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, 7th Day of December, 2021.**

**JUSTICE NARENDRA KUMAR JAIN
CHAIRMAN**

**DR. JASPAL SINGH
MEMBER**

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