

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

Case No. 67 of 2019

In the matter of :-

**Badri Higher Secondary School, Evan-E-Burhani, Noorani Nagar,
Dhar Road, Indore, Madhya Pradesh**

..... **Petitioner**

V/s

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

..... **Respondent**

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

ORDER

DATED 18.11.2021

Justice Narendra Kumar Jain, Chairman, NCMEI

1. This application has been received on 11.03.2019 by hand through Mr. Junais P, Advocate of the petitioner institution for grant of Minority Status Certificate (in short 'MSC') to Badri Higher Secondary School, Evan-E-Burhani, Noorani Nagar, Dhar Road, Indore, Madhya Pradesh.
2. Learned counsel for the petitioner filed affidavit of Shri Yusuf Ali Khargonwala, Secretary, Badri Education Society and the authorized representative of the applicant institution i.e. Badri Higher Secondary School, Evan-E-Burhani, Noorani Nagar, Dhar Road, Indore, Madhya Pradesh 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.
3. Learned counsel for the petitioner has filed notarized copy of Unique ID No. : MP/2018/0193294 of the petitioner's Society as given by the Niti Aayog Portal NGO Darpan, notarized copy of application dated 14.11.2018 submitted 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') alongwith its postal receipt and its tracking report, notarized copy of Society Registration Certificate of Badri Education Society, notarized copy of Memorandum of Association alongwith list of founding

members and List of members from 12.05.2017 to 11.05.2020 of the society and the notarized copy of recognition certificate dated 12.08.2015 issued by the office of Collector (MP) for the Academic Session 2019-20 to the petitioner institution.

4. It is stated in the petition that on dated 14.11.2018, the petitioner institution has applied to the State Competent Authority for grant of NOC which was delivered on 15.11.2018 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. Despite service of registered notice dated 01.05.2019 and 05.11.2020, the respondent has failed to appear before this Commission and also failed to reply the petition. Hence the case was proceeded ex-parte against 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 08.09.2021 but despite notice by post and email to the said Committee members no reply 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.

6. Having heard the Learned Counsel for the petitioner we have perused the documents, pleadings of the parties and affidavit of Shri Yusuf Ali Khargonwala, Secretary, Badri Education Society.
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 Muslim minority community and is being administered by the Badri 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 Shri Yusuf Ali Khargonwala, Secretary, Badri Education Society.
8. As per the information supplied by the petitioner institution is that out of total 230 students, 184 students are from Muslim minority community and 46 are Hindus. 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 Muslim minority community.
10. The 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.

11. Relying on the said unrebutted evidence produced on behalf of the petitioner, we find and hold that Badri Higher Secondary School, Evan-E-Burhani, Noorani Nagar, Dhar Road, Indore, Madhya Pradesh run by Badri 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.
12. Consequently, Badri Higher Secondary School, Evan-E-Burhani, Noorani Nagar, Dhar Road, Indore, Madhya Pradesh 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, resolution of the General Body of the Society to authorize Shri Yusuf Ali Khargonwala, Secretary, Badri Education Society for obtaining MSC from this Commission and also file updated recognition / affiliation order of the petitioner institution.
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 **Thursday, 18th Day of November, 2021.**

**JUSTICE NARENDRA KUMAR JAIN
CHAIRMAN**

**DR. JASPAL SINGH
MEMBER**

**DR. SHAHID AKHTER
MEMBER**