

**GOVERNMENT OF INDIA
NATIONAL COMMISSION FOR MINORITY
EDUCATIONAL INSTITUTIONS**

CASE NO. 1151 OF 2018

In the matter of :-

Rahmaniya Public School, 27, Udapura, Indore, Madhya Pradesh- 452 002.

..... Petitioner

Vs

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

..... Respondent

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

O R D E R

Dated: 14th July 2021

Justice Narendra Kumar Jain, Chairman

An application along with affidavit of Mr. Sabir Husain, Secretary, Rahmania Educational and Welfare Society, 27, Udapura, Indore, Madhya Pradesh- 452 002 have been received on 24.1.2019 by hand from Shri Junais P., Advocate of the petitioner for grant of minority status certificate to Rahmaniya Public School, 27, Udapura, Indore, Madhya Pradesh- 452 002.

2. The petitioner has filed the Unique ID No.: MP/2017/0165779 of the petitioner's society as given by the Niti Aayog Portal NGO Darpan. Mr. Sabir Husain, Secretary, Rahmania Educational and Welfare Society, 27, Udapura,

Indore, Madhya Pradesh- 452 002 has filed his affidavit 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. He has also filed notarized copy of the Certificate of Registration of the Rahmania Educational and Welfare Society, Memorandum of Association, Rules & Regulations, amended Memorandum of Association, amended Rules & Regulations, list of present members of the Society and notarized downloaded copy of the letter dated nil issued by the District Education Officer, Indore granting affiliation to the petitioner institution from 1.4.2019 to 31.3.2022. He has also filed notarized copy of the letter dated 4.10.2018 issued by the office of the Commissioner, Backward Classes & Minority Welfare, Madhya Pradesh granting temporary minority status certificate to the petitioner institution for one year .

3. It is stated in the petition that on dated 3.10.2018, the petitioner institution has applied to the State Competent Authority for grant of No Objection Certificate (in short "NOC") 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 has also not rejected the said application and not communicated the same to the petitioner. After 90 days from the submission of the application for grant of NOC to the competent authority, the petitioner has filed application for grant of minority status certificate to this

Commission as per the provisions of Section 10 of the National Commission for Minority Educational Institutions Act, 2004 (in short 'NCMEI Act, 2004).

4. Despite service of registered notice, the competent authority of the State of Madhya Pradesh has failed to apprise the Commission about the status of the said application. The State Government has failed to reply the petition and none appeared on behalf of the respondent. Hence, the case was proceeded ex-parte against the respondent The Secretary, Backward Classes and Minority Welfare Department, Government of Madhya Pradesh. In the facts and circumstances of the case, Commission deemed fit and proper that physical inspection report along with the recommendations may be obtained from the Committee constituted by the Commission for issuance of minority status certificate to the petitioner institution.

5. Despite service of above inspection letter and reminder letter, no response is received from the Committee members constituted by the Commission. Pendency of the said application 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. 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. We have heard Mr. Junais P., learned counsel appearing on behalf of the petitioner institution and perused the record, documentary evidence and affidavit of Mr. Sabir Husain, Secretary, Rahmania Educational and Welfare Society, 27, Udapura, Indore, Madhya Pradesh- 452 002.

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 community and is being administered by Rahmania Educational and Welfare Society which is managed and run by the members of the Muslim 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. Sabir Husain.

8. The Amended Memorandum of Association of the said society clearly reflects that the beneficiaries of the petitioner institution are members of the Muslim minority community. The said facts are also stands proved from the affidavit of Mr. Sabir Husain. In addition of the fact that the State Government of Madhya Pradesh has issued minority status certificate for one year to the petitioner institution, it is proved by the letter No. A.S./829/2018/Satrah-2/4697 dated 4.10.2018 issued by the office of the Commissioner, Backward Classes & Minority Welfare, Madhya Pradesh. There is no document on record to rebut the

documentary evidence produced on behalf of the petitioner institution.

9. In our considered opinion, minority status cannot be conferred on a minority educational institution for particular period. It has been held by the Madras High Court in T.K.V.T.S.S. Medical Educational & Charitable Trust Vs. State of Tamil Nadu, AIR 2002 Madras 42 that a minority status cannot be conferred on a minority educational institution for particular period to be renewed periodically like a driving license. It is not open for the State Government to review its earlier order conferring minority status on a minority educational institution unless it is shown that the institution concerned has suppressed any material fact while passing the order of conferral of minority status or there is fundamental change of circumstances warranting cancellation of the earlier order.

10. Relying on the said unrebutted evidence produced on behalf of the petitioner, Rahmaniya Public School, 27, Udupura, Indore, Madhya Pradesh- 452 002 run by Rahmania Educational and 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 Community.

11. Consequently, Rahmaniya Public School, 27, Udupura, Indore, Madhya Pradesh- 452 002 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 Wednesday, 14th day of July, 2021.

**JUSTICE NARENDRA KUMAR JAIN
CHAIRMAN**

**DR. JASPAL SINGH
MEMBER**

MD