

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

**Case No. 1155 of 2018**

**In the matter of :-**

**Nahar Public School, Karmadi Naka, Ratlam, Saraswati Nagar,  
Madhya Pradesh-432052**

**..... 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 05.10.2021**

**Justice Narendra Kumar Jain, Chairman, NCMEI**

1. This application has been received on 24.01.2019 by hand through Mr. Junais P, Advocate of the petitioner institution for grant of Minority Status Certificate (in short 'MSC') to Nahar Public School, Karmadi Naka, Ratlam, Saraswati Nagar, Madhya Pradesh-432052.
2. Learned counsel for the petitioner filed affidavit of Shri Mahohar Singh Nahar, Secretary of the Vidhyarthi Sanskar Samiti 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 Jain minority community.
3. Learned counsel for the petitioner has filed notarized copy of Unique ID No. : MP/2018/0222139 of the petitioner's Society as given by the Niti Aayog Portal NGO Darpan, original acknowledgement copy of application dated 03.10.2018 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') by hand, certified copy of Society Registration Certificate of Vidhyarthi Sanskar Samiti, certified copy of Memorandum of Association alongwith list of

founding members, certified copy of amended Memorandum of Association alongwith list of present members of the society, original certificates dated 25.03.2019 issued by the Jain Social Group, Ratlam, MP to prove that the founding and present members of the society are belonged to Jain minority community, notarized copy of the recognition certificate no. 20120709/School I.D. – 14092 dated 23.03.2019 issued by the District Education Officer, Ratlam for class Nursery to VIII<sup>th</sup> Std. for the period from 01.04.2019 to 31.03.2022 to the petitioner institution, Affidavit of Mr. Mahohar Singh Nahar, Secretary of Vidhyarthi Sanskar Samiti to prove that the petitioner institution shall not deny admission to the eligible candidate of the minority community subject to the eligibility of the students and availability of the accommodation in the petitioner institution, Affidavit of Mr. Mahohar Singh Nahar, Secretary of Vidhyarthi Sanskar Samiti to prove that the founding and present members of the society are belonged to Jain minority community, certified copy of the present members of the society and certified copy of the Madhya Pradesh religious data, Ratlam District religion census of 2011, Ratlam District Population Census 2011-2019

4. It is stated in the petition that on dated 03.10.2018, the petitioner institution has applied to the State Competent Authority for grant of NOC which was delivered by hand 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, none appeared on behalf of the respondent. Hence the case is proceeded ex-parte against the

respondent. 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.

6. Despite service of registered inspection letter dated 10.02.2020, reminder letters dated 03.12.2020 and 19.07.2021 and email dated 20.07.2021, 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.
7. It transpires from the record this petitioner institution is upto Nursery to VIII<sup>th</sup> Std. and out of total 653 students, 62 are from Jain minority community, 107 are from Muslim minority community and others are from Hindu Community. Learned Counsel for the petitioner Mr. Junais P, reiterated their contention and submitted that the Hon'ble Apex Court, various High Courts as well as this Commission 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. Learned Counsel for the petitioner drawn attention of this Commission on the Judgment dated 30.1.2019 passed by the Hon'ble High Court of Judicature at Madras in the matter of The Institute of the Franciscan Missionaries of Mary Vs. The Government of Tamil Nadu (W.P. No. 23789 of 2018). Learned Counsel for the petitioner further submitted that Hon'ble Apex Court in its judgment dated 25.9.2019 passed in Civil Appeal No. 106 of 2011 in the matter of Andhra Kesari College of Education & Anr. Vs. State of Andhra Pradesh has categorically affirmed the legal position

that if a minority institution does not have the percentage of students belonged to such minority community as prescribed by the State Government, then such minority institution can admit eligible students from other communities also to fill up the vacant seats. Population of Jain minority community in the State of Madhya Pradesh as per the census of 2011 is only 0.78% and in Ratlam District is 2.02%.

8. At the outset, we made it clear that this Commission has been created under an Act of Parliament to facilitate exercise of the educational rights of minorities enshrined in Article 30 of the Constitution of India. This Commission is a quasi-judicial tribunal and it has been vested with the jurisdiction, power and authority to adjudicate upon the dispute relating to grant of minority status certificate etc. covered under Article 30 of the Constitution of India. The rationale behind Article 30 of the Constitution is to give protection to minorities to run educational institutions of their choice. These rights are protected by a prohibition against their violation and are backed by a promise of enforcement. The protection is contained in Article 30 which bars the State for making any law, rule and regulation abridging or limiting any of the fundamental rights guaranteed under Chapter 3 of the Constitution and these to veto any law rule or regulations found inconsistent with.
9. It is pertinent to mention here that this Commission has decided cases in favour of the minority institutions, Hon'ble Apex Court and various High Courts have also 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 institutions. Above legal issue was also discussed by this Commission in the matter 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).

10. Having heard the Learned Counsel for the petitioner we have perused the documents, pleadings of the parties and affidavit of Shri Mahohar Singh Nahar, Secretary of the Vidhyarthi Sanskar Samiti.
11. 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 Vidhyarthi Sanskar 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 Mahohar Singh Nahar, Secretary of the Vidhyarthi Sanskar Samiti.
12. 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.
13. Relying on the said unrebutted evidence produced on behalf of the petitioner, we find and hold that Nahar Public School, Karmadi Naka, Ratlam, Saraswati Nagar, Madhya Pradesh-432052 run by Vidhyarthi Sanskar 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.
14. Consequently, Nahar Public School, Karmadi Naka, Ratlam, Saraswati Nagar, Madhya Pradesh-432052 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 institution would file resolution of the General Body of the Society to authorize Shri Mahohar Singh Nahar,

Secretary of the Vidhyarthi Sanskar Samiti for obtaining MSC from this Commission

15. After compliance of the above order, a minority status certificate be issued accordingly.
16. In view of the above, the present petition is disposed of in accordance with this order.

Signed, pronounced and published on **Tuesday, 5<sup>th</sup> Day of October, 2021.**

**JUSTICE NARENDRA KUMAR JAIN  
CHAIRMAN**

**DR. JASPAL SINGH  
MEMBER**

**DR. SHAHID AKHTER  
MEMBER**

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