

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

Case No. 319 of 2018

In the matter of :-

1. **Shri S.M. Naiyer Imam, S/o Late S.M. Zareef, Founder Secretary, Rauf Muslim Jamia (RMJ) & its Institutions, Bahera, District Darbhanga-847201 (Bihar)**
2. **Shri Rohit Kumar, S/o Shri Santosh Kumar, Village & PO Dhabahi, S-Laukahi, District Madhubani-847108 (Bihar)**
.....Complainants /Petitioners

V/s

1. **Shri S.M. Zafar Imam, S/o Late S.M. Zareef, President, Rauf Muslim Jamia Society, C/o S.M. Zaheer Alam Teachers Training College, PO Bahera, District Darbhanga, Bihar**
2. **Secretary, Human Resource Development Department, Government of Bihar**
..... Respondents

Present: Mr. S.M. Naiyer Imam for the petitioner no. 1
None for petitioner no. 2
Mr. Saifi Ahmad, Advocate for the respondent no. 1
None for the respondent no. 2

Application Under Section 12(C) of the National Commission for Minority Educational Institutions (in short 'NCMEI') Act, 2004 for cancellation of Minority Status Certificate (in short 'MSC') issued to S.M. Zaheer Alam Teachers Training College, At & PO Bahera, District Darbhanga (Bihar)-847201 vide Case No. 1029 of 2016 on dated 16.08.2016

ORDER

DATED 19.08.2021

Justice Narendra Kumar Jain, Chairman, NCMEI

1. Two complaints / petitions have been received on dated 08.01.2018 and 18.10.2017 from Shri S.M. Naiyer Imam, Founder Secretary, Rauf Muslim Jamia (in short 'RMJ') & its Institutions and Shri Rohit Kumar, RTI Activist, Village & PO Dhabahi, S-Laukahi, District Madhubani-847108 (Bihar) for inquiry and cancellation of MSC issued to S.M. Zaheer Alam Teachers Training College, At & PO Bahera, District Darbhanga (Bihar)-847201 vide Case No. 1029 of 2016 on dated 16.08.2016. Above petitions was registered by this Commission on 02.04.2018 and notice was issued to respondent no. 1 and then on dated 30.08.2018 to the respondent no. 2 also.

2. The brief facts of the case are that on dated 08.01.2018 this Commission has received complaint by post from Shri S.M. Naiyer Imam, Founder Secretary, RMJ & its Institutions, 101-B, Hytech Castle Apartment, Road No. 3, New Patliputra Colony, Patna-800013 (Bihar) and stated that he would like to throw light on some of the key points on the proforma application, information / documents and affidavits submitted by Mr. S.M. Zafar Imam (self proclaimed Chairman), Mr. Anwar Halim Anwar (self proclaimed Principal), Mr. S.M. Ali Imam (self proclaimed Secretary) of the S.M. Zaheer Alam Teachers Training College, Bahera and others to NCMEI for grant of MSC to S.M. Zaheer Alam Teachers Training College, Bahera, District Darbhanga-847201 (Bihar) run and sponsored by RMJ Society, Bahera and the documents provided by the NCMEI under Right to Information (RTI) Act, 2005.
3. The petitioner has further submitted that Hon'ble Sub-Judge –III of Civil Court, Darbhanga (Bihar) appointed Mr. Md. Naiyar Azam as Court Receiver, Vide order dated 07.06.2016 for looking after the management and affairs including admissions and examinations of RMJ Society, Bahera and its allied institutions situated at Bahera which has also been notified by Lalit Narayan Mithila University (in short 'LNMU'), Darbhanga through its notification dated 11.07.2016 in compliance of Civil Court order. So the application dated 11.07.2016 filed by the respondent no. 1 before this Commission for grant of MSC without the approval of the Court Receiver, is a clear case of contempt of Hon'ble Civil Court Order dated 07.06.2016. Mr. Anwar Halim Anwar, Principal stated in his affidavit dated 08.07.2016 filed before this Commission that "due to non availability of muslim students rest vacant seats were diverted and filled from general category students for the survival of the institution", but the students who came on merits are removed from selection list, because they are unable to pay the desired amount of donation to the respondent no. 1 and others for admission in B.Ed. and D.Ed. courses and allowed the students who are capable of paying donation to the respondent and others. Less than 5%

muslim students are selected under merits randomly since 2012-13, this can be verified from LNMU, Darbhanga (Bihar). He has also stated in the said affidavit that “admission of current session (2016-18) is under process” but he has given affidavit to LNMU, Darbhanga (Bihar) that admission process has been completed between 21.06.2016 to 26.06.2016 / 29.06.2016 as per counseling and admission schedule published in Dainik Bhaskar Newspaper on dated 26.06.2016. So it is sufficient for the fraud of Mr. S.M. Zafar Imam, Mr. S.M. Ali Imam, Mr. Anwar Halim Anwar and others. He is also stated in the said affidavit that “the admission in the current academic session 2016-18 and breakup of minority population communitywise are Muslim -16% + Buddhist – 24% & Jainsim – 5%, total 45%” but this fact is totally false and baseless as Buddhist and Jain students are in the concerned region are less than 01%.

4. The petitioner no. 1 further stated in the petition that respondent no. 1 has stated in the application for grant of MSC that applicant institution has never applied to this Commission for grant of MSC but this fact is wrong because institution has applied for MSC for the said college T.T. college in the year 2012 and this can be checked with the Commission’s record. Respondent no. 1, Mr. S.M. Ali Imam, Secretary and Mr. Anwar Halim Anwar, Principal of the said college are master of forgery and farudism and the matter of governing body of RMJ, Bahera and other institutions are sub judice before the Hon’ble Sub Judge-III, Civil Court, Darbhanga (Bihar) and they have done a huge scam of several crores of college funds for their personal use and request the Commission to set up an inquiry on grant of MSC to S.M. Zaheer Alam Teachers Training College, PO Bahera, District Darbhanga (Bihar) by deliberately hiding the facts and violating the Hon’ble Civil Court’s order and also direct to Superintendent of Police (SP), Darbhanga to lodge FIR against the above persons. In support of his contentions, he has filed the following documents before this Commission :-

(i) Copy of application for grant of MSC submitted to NCMEI on dated 11.07.2016

- (ii) Copy of affidavit filed by Mr. S.M. Zafar Imam, S/o Late S.M. Zareef
- (iii) Copy of affidavit filed by Mr. Anwar Halim Anwar, S/o Late Mr. Najmul Hoda, Principal, S.M. Zaheer Alam Teachers Training College, PO Bahera, District Darbhanga, Bihar
- (iv) Copy of Dainik Bhaskar, Patna Advertisement dated 17.02.2016
- (v) Copy of detailed letter dated 01.04.2019 of Mr. Rohit Kumar, RTI Activist to His Excellency Governor of Bihar, Hon'ble Chief Minister of Bihar, Chairperson National Council for Teachers Education (in short 'NCTE'), Additional Chief Secretary / Principal Secretary, Vigilance Department, Patna with post office receipts.
- (vi) Copy of letter no. 2019063059 dated 06.06.2019 issued by Chief Minister Secretariat, Patna Bihar to Mr. Rohit Kumar in response to his RTI application dated 21.06.2018.
- (vii) Copy of letter dated 13.05.2019 of Mr. Rohit Kumar
- (viii) Copy of letter no. 2441 dated 25.06.2019 issued by Under Secretary & PIO, Vigilance Department, Government of Bihar, Patna to Mr. Rohit Kumar in response to his RTI application dated 13.05.2019
- (ix) Copy of letter dated 25.04.2019 by Deputy Secretary, Govt. of Bihar
- (x) Copy of letter dated 04.06.2019 issued by Section Officer (PG / Complaints), NCTE
- (xi) Copy of letter dated 15.06.2016 of Mr. Rohit Kumar to Section Officer (PG / Complaints), NCTE, New Delhi alongwith postal office receipts
- (xii) Copy of letter dated 31.10.2019 of Mr. Rohit Kumar to Hon'ble High Court of Patna with postal office receipts
- (xiii) Copy of Order dated 11.12.2019 of Hon'ble High Court of Patna in case no. 17243/2019
- (xiv) Copy of letter dated 26.12.2019 issued by Regional Director, Eastern Regional Committee, NCTE to The Registrar, LNMU
- (xv) Copy of letter of SP, EOU-Bihar, Patna dated 02.07.2021 to District Officer, SSP, Darbhanga (Bihar), VC of LNMU, Darbhanga and Principal Commissioner of Income Tax, Patna
- (xvi) Copy of letter of Assistant Registrar, Inspector General, Darbhanga dated 29.11.2013
- (xvii) Copy of High Court of Patna order dated 27.08.2015 in LPA No. 586 of 2015 and 841 of 2015
- (xviii) Copy of letter dated 27.01.2014 of Assistant Registrar, Inspector General, Patna
- (xix) Copy of High Court of Patna order dated 14.02.2014 in Civil Writ Jurisdiction Case No. 1983 of 2014
- (xx) Copy of letter dated 28.02.2014 of Assistant Registrar, Inspector General, Patna
- (xxi) Copy of Hon'ble Supreme Court of India order dated 08.07.2015 in SLA (C) No. 11862 of 2015
- (xxii) Copy of Hon'ble Supreme Court of India order dated 26.09.2014 in SLA (C) No. 25008-25009 of 2014
- (xxiii) Copy of Hon'ble High Court of Patna order dated 04.09.2017 in Letters Patent Appeal No. 1849 of 2015
- (xxiv) Copy of Hon'ble High Court of Patna order dated 03.01.2018, 19.01.2018 in Letters Patent Appeal No. 2164 of 2015
- (xxv) Copy of Hon'ble High Court of Patna order dated 08.09.2016 in Letters Patent Appeal No. 1571 of 2016
- (xxvi) Copy of Hon'ble High Court of Patna order dated 14.08.2018 in Civil Review No. 256 of 2018
- (xxvii) Copy of Sub Judge-III, Darbhanga order dated 24.06.2016 in Title Suit No. 189 of 14 / 326 of 2015
- (xxviii) Copy of Notification of LNMU dated 11.07.2016
- (xxix) Copy of RMJ letter dated 01.12.2015 and 25.01.2016 to Principal Secretary / Secretary, Education Department, Patna (Bihar)

- (xxx) Copy of letter dated 01.10.2019 of First Appellate Authority, Assistant Director, Research and Training, Education Department, Govt. of Bihar
- (xxxi) Copy of RMJ Letter dated 01.12.2015
- (xxxii) Copy of notice dated 18.07.2016 issued by NCMEI to Secretary, Human Resource Development Department, Govt. of Bihar
- (xxxiii) Copy of hand receipt of notice dated 18.07.2016 issued by NCMEI to Secretary, Human Resource Development Department, Govt. of Bihar
- (xxxiv) Copy of application for obtaining information from Dental Council of India, New Delhi
- (xxxv) Copy of letter dated 23.03.2012 issued by Deputy Secretary & PIO, Dental Council of India to Principal, Dr. S.M. Naqui Imam Dental College & Hospital, Bahera, Darbhanga
- (xxxvi) Copy of letter dated 29.03.2012 of Principal, Dr. S.M. Naqui Imam Dental College & Hospital, Bahera, Darbhanga to Deputy Secretary & PIO, Dental Council of India
- (xxxvii) Copy of letter dated 12.04.2012 issued by Deputy Secretary & PIO, Dental Council of India to Principal, Dr. S.M. Naqui Imam Dental College & Hospital, Bahera, Darbhanga
- (xxxviii) Copy of letter dated 12.03.2012 issued by V-Chairman, Dr. S.M. Naqui Imam Dental College & Hospital, Bahera, Darbhanga to Hon'ble Secretary, Ministry of Health & FW, New Delhi
- (xxxix) Translated copy of advertisement dated 01.01.2012
- (xxxx) Copy of Urdu advertisement dated 01.01.2012
- (xxxvii) Copy of advertisement dated 03.07.2012
- (xxxxi) Copy of letter dated 26.08.2016 of Branch Manager, Central Bank of India to Receiver, RMJ

5. Petitioner No. 2, Mr. Rohit Kumar has also filed petition and the substance of the allegations contained in the complaint dated 18.10.2017 are virtually, identical to those contained in the complaint filed by the petitioner no. 1, Shri S.M. Naiyer Imam. He has also stated that Mr. S.M. Zafar Imam was in complicity with the NCMEI, New Delhi and their authorities. MSC issued by this Commission is based on totally false and fake information and with collusion of the officers and staff members of the NCMEI, New Delhi in very hurry manner. Therefore, prayed that the order granting MSC to the S.M. Zaheer Alam Teachers Training College, PO Bahera, District Darbhanga (Bihar) may be cancelled. In support of his contention petitioner no. 2 has filed the following documents before this Commission :-

- (i) Copy of order of Sub Judge-III, Darbhanga dated 24.06.2016 in Title Suit No. 189 of 2014 / 326 of 2015
- (ii) Copy of notification dated 11.07.2016 issued by LNMU, Darbhanga
- (iii) Copy of Hon'ble High Court of Patna order dated 04.09.2017 in Patent Appeal No. 1849 of 2015
- (iv) Copy of Enquiry Report dated 20.07.2017 issued by Pro-Vice Chancellor (Chairman), LNMU, Darbhanga
- (v) Copy of application for grant of MSC submitted to NCMEI on dated 11.07.2016

- (vi) Copy of affidavit filed by Mr. Anwar Halim Anwar, S/o Late Mr. Najmul Hoda, Principal, S.M. Zaheer Alam Teachers Training College, PO Bahera, District Darbhanga, Bihar
- (vii) Copy of Dainik Bhaskar, Patna Advertisement dated 17.02.2016
- (viii) Copy of letter dated 05.03.2016 of Mr. Samsul Hoda to Regional Director, NCTE and Vice Chancellor, LNMU with postal receipts
- (ix) Copy of Affidavit of Mr. Samsul Hoda dated 22.02.2016
- (x) Copy of NCMEI order dated 14.01.2020 in case no. 319 of 2018
- (xi) Copy of letter dated 26.12.2019 issued by Regional Director, NCTE to The Registrar, LNMU, Darbhanga
- (xii) Copy of Hon'ble High Court of Patna order dated 11.12.2019 in Civil Writ Jurisdiction Case No. 17243 of 2019
- (xiii) Copy of letter dated 25.04.2019 issued by Deputy Secretary to Govt., Nigrani Department, Govt. of Bihar to Registrar, LNMU, Darbhanga
- (xiv) Copy of Hon'ble High Court of Patna order dated 22.01.2020 in Civil Writ Jurisdiction Case No. 17243 of 2019
- (xv) Copy of Hon'ble High Court of Patna order dated 19.02.2020 in Civil Writ Jurisdiction Case No. 15479 of 2017
- (xvi) Copy of LNMU, Darbhanga notification dated 24.02.2020
- (xvii) Copy of letter dated 09.09.2019 issued by Director, Research & Training, Govt. of Bihar to Deputy Secretary, NCMEI

6. Following documents have been filed by petitioner no. 1 and petitioner no. 2 :-

- (i) Copy of dated 15.03.2008 of the Vice Chancellor & Proctor, LNMU to the Station In Charge
- (ii) Copy of office order dated 07.08.2013 regarding setting aside the rustication order against Mr. Rohit Kumar
- (iii) Report Committee dated 06.09.2011
- (iv) FIR No. 385/19 dated 09.08.2019
- (v) Copy of press release in Urdu Newspapers dated 07.07.2019 and 07.09.2019
- (vi) Copy of Hon'ble Supreme Court of India order dated 26.09.2014 in SLA (C) Nos. 25008-2009 / 2014
- (vii) Copy of order of Hon'ble Patna High Court dated 14.08.2018 in Civil Review No. 256 of 2018 in C. Misc 186 of 2018

7. Thereafter, both the petitioners have filed and sent by post many applications and complaints, written submissions alongwith some documents, judgements and orders passed by various courts which are available on record. On dated 28.07.2021, Commission has received a letter from Mr. S.M. Naiyer Imam, petitioner no. 1 and in the said letter he has stated that he is not able to attend the upcoming scheduled hearing dated 28.07.2021 in this case and requested to consider the representation as written arguments and immediately withdraw the MSC granted in favour of respondent no. 1 institution.

8. Respondent no. 1 has filed two separate replies for both the petitioners. In reply to the petitioner no. 1 submitted that the said objections are without any substance and deserve to be dismissed. Both the petitioners are not coming

before the Commission with clean hands. Petitioner No. 1 is not the Secretary of RMJ Society because he was removed on 30.06.2012 alongwith primary membership of the said society. Petitioner no. 1 being aggrieved by the said removal order moved various petitions challenging the same, which ultimately came to be dismissed by the Hon'ble Supreme Court vide order dated 26.09.2014 SLP No. 25008-25009/2014, while observing that in case he moves the Civil Court, his entitlements will be decided without being influenced by the observations and findings recorded by the High Court. Petitioner No. 1 filed Civil Suit No. 189 of 2014 / 326 of 2015 for declaration. In the said Civil Suit learned Sub Judge-III passed an order dated 06.12.2017, whereby the petitioner no. 1 was restrained from making any correspondence as Secretary. Learned Sub Judge-III in the said civil suit passed an order dated 07.06.2016 that petitioner no. 1 was to jointly operate the Bank Account of the society alongwith the respondent no. 1 and Mr. Md. Naiyer Azam was appointed as the Receiver to look after the affairs related to admissions and examinations of the society till further orders. The aforesaid order does not extend to filing application seeking grant of MSC from this Commission. So application dated 11.07.2016 seeking grant of MSC is valid and correct. The said order was set aside by the Hon'ble Patna High Court in Civil Misc. Case No. 781/2016 vide order dated 30.08.2016 in respect of above both the directions given by the Civil Court.

9. In parawise reply, respondent no. 1 has submitted that the order dated 07.06.2016 is limited and does not extend to anything other than admissions and examination and does not apply to application for grant of MSC and said order was set aside by the Hon'ble High Court vide order dated 30.08.2016, therefore, this objection does not survive for consideration by this Commission. In the year 2012-13 there were total 200 sanctioned seats as per the LNMU, Darbhanga, of which 26 seats were admitted from Muslim minority, which is 13% and remaining were general as per the practice. Mr. Anwar Halim Anwar

has been the Principal since 1984 without any objection from National Council for Teachers Education (NCTE), State Government and the University.

10. Respondent No. 1 further submitted that in the affidavit dated 08.07.2016 in which Mr. Anwar Halim Anwar has stated that “admission of current session 2016-18 is under process” but same person informed the LNMU, Darbhanga that in current academic session 2016-18 of B.Ed. and D.Ed. courses admission process has been completed between 21.06.2016 to 26.06.2016 as per counseling and admission schedule published in Dainik Bhaskar Newspaper dated 26.06.2016 and this statement demonstrates fraud. This allegation is totally false and incorrect out of context. He is submitted that by a typing crept into the process since the dates of admission were between 29.06.2016 to 31.06.2016, so due to typing error there is no wrong or false information or statement was made by the respondent. In above affidavit breakup of academic year 2015-17 given as Buddhist 24%, Jain 5% and Muslim 16% is incorrect. This allegation of the petitioners are not correct. The information were supplied to this Commission on dated 11.07.2016, as per the resolution of the governing body dated 02.08.2013 by which resolution to be given for reservation for 24% Buddhist, 5% Jain and 21% Muslim students to complete the criteria of 50% reservation to minority students, but could not be included in the affidavit due to inadvertent error. So the allegation by petitioner is out of context and is misleading. Copy of minutes also enclosed with the reply. As per the contention of the petitioners that applicant institution had never applied for grant of MSC, this statement is incorrect since petitioner himself had applied for the certificate in his capacity as the Secretary of the College, so this allegation is completely false because on dated 30.06.2012, petitioner no. 1 had been removed from the post of Secretary and also from the primary membership of the society. So petitioner no. 1 had made such an application after 30.06.2012 then the same was of no consequence since he had no authority to do so because respondent have no knowledge of the same. Moreover, there was no resolution or decision

of the society to apply for MSC and if application was made before the Commission i.e. without authority and of no consequence. Governing Body was taken decision for applying MSC on dated 22.09.2015 only. He has also filed copy of resolution dated 22.09.2015. As per the objection taken by the petitioners that the matter is subjudice before the civil court, Darbhanga and respondent no. 1 have done huge scam of several crores for their personal use. This statement given by petitioners are not only completely false and incorrect but the same are per se defamatory and malicious. So the allegations are completely false and unsubstantiated. Respondent No. 1 has further submitted that present complaint has been filed with ulterior motives and the same contains statements which are contrary to judicial records and is nothing but a counter blast action by the complainant to harass and cause problems to the respondent and to the smooth functioning of the society and prayed for dismiss the petition.

11. Respondent No. 1 has filed separate reply for the complaint of petitioner no. 2 and submitted that complaint is without substance and deserve to be dismissed. Respondent No. 2 has no locus standi to maintain the present complaint and he is nothing but a disgruntled student who had been rusticated from one of institution namely Dr. S.M. Naqui Imam Dental College & Hospital, Bahera, District Darbhanga (Bihar) run by the respondent society in question, on account of his undesirable activities. The challenge to the rustication was also rejected after which respondent no. 2 has become a habitual and chronic litigant, with the aim of disrupting the activities of society. He is also not coming with the clean hands before this Commission and also has misdirected and mischievous activities behind filing the present complaint.
12. Petitioner No. 2 was a notorious person and involved in so many illegal activities which was not suitable for the institution and the environment was being polluted and college administration started taking action against petitioner no. 2. First, he was warned and finally expelled from the college hostel on

26.03.2009. In spite of warning and removal from the college hostel, his behavior and conduct did not improve and involved in ragging of new comer students, thereafter the Principal following the direction passed by the Hon'ble Supreme Court against ragging, rusticated the petitioner no. 2 from next four years vide notification dated 11.10.2009 and this decision was published in newspaper. Against the said order of rustication petitioner no. 2 availed the remedy of appeal before the Dental Council of India, New Delhi. Thereafter said council was called report and Dental Council of India has rejected his appeal.

13. Thereafter petitioner no. 2 became the biggest enemy of the respondent institution and society and thereafter he started filing frivolous petitions against the respondent college run by society and also against the University officials. He filed FIR against the college authorities including Secretary which was registered as case no. 208/2009 in Police Station, Bahera on dated 18.08.2009, which was found false and FR was submitted on 30.12.2009. He has filed complaint as case no. 1557/2009 before Chief Judicial Magistrate which is pending. He has filed complaint before the CJM, Darbhanga as Case No. 544/2010 which was dismissed vide order dated 13.01.2011. He further filed criminal case before PS, Bahera as case no. 222 of 2011 dated 09.09.2011 which is pending. He has further filed complaint before PS, Bahera as case no. 267/2011 dated 16.10.2011 which is found false and FR has been submitted on 17.11.2014. He has also filed criminal case before PS Bahera as case no. 391/2013 dated 23.09.2013 which was found false by the Police and FR was submitted on 06.09.2018. He has also filed PIL before Ho'ble Patna High Court appearing C.W.J.C. No. 15479/2017 which is pending for disposal.
14. Looking to the above facts, it is clear that petitioner no. 2 has become a professional chronic litigant not only against the institutes but also against the officials and professors of the University. The Assistant Law Officer of the LNMU, Darbhanga Dr. Vijay Kumar Parajit lodged a FIR against the petitioner no. 2 which is registered as LNMUPS Case No. 101/2014 dated 24.05.2014

under section 353, 384, 504 and 506 IPC which is for threatening officials to disturb in discharging the official duty with intention to submit a report against this institution and charge sheet has been submitted by the Police in above case.

15. Above events makes it clear that the petitioner no. 2 is not a bonafide or genuine complainant. This complaint is filed pre existing enmity with the respondent. Therefore, neither petitioner no. 2 has a locus to maintain the present complaint nor is the genuine complainant. Same allegations seeking intervention before the Hon'ble Supreme Court in Civil Appeal No. 4250/2019 was raised by the petitioner no. 2 and the order passed in the said petition was for the intervention application to be heard alongwith main petition which could be listed in due course. So since the set of facts is before the Hon'ble Supreme Court, this Hon'ble Commission may refrain from adjudicating the complaint which was filed by Shri Rohit Kumar. The substance of the allegations contained in the complaint filed by the respondent no. 2 are virtually identical to those contained in the complaint filed by petitioner no. 1. Respondent has filed detailed response to the same which are not being repeated herein for the sake of brevity. So respondent no. 1 has prayed to dismiss the complaint with costs.
16. In support of his contention, respondent no. 1 has filed the following documents before this Commission :-
- (i) Copy of the RMJ notification / resolution dated 30.06.2012
 - (ii) Copy of the newspaper clipping of Dainik Jagran of 03.07.2012
 - (iii) Copy of Hon'ble Supreme Court of India order dated 26.09.2014 in case no. 25008-25009/2014
 - (iv) Copy of Sub Judge-III, Darbhanga order dated 06.12.2017 in title suit no. 189 of 2014 / 326 of 2015
 - (v) Copy of Sub Judge-III, Darbhanga order dated 07.06.2016 in title suit no. 189 of 2014 / 326 of 2015
 - (vi) Copy of Hon'ble High Court of Patna order dated 30.08.2016 in Civil Misc. Jurisdiction No. 781 of 2016
 - (vii) Copy of the minutes of the meeting and decision dated 02.08.2013
 - (viii) Copy of resolution dated 22.09.2015
 - (ix) Copy of rustication notification order dated 11.10.2009
 - (x) Copy of general notice dated 13.10.2019
17. Respondent No. 2 has filed a letter dated 09.09.2019 before this Commission and stated that he has fixed two dates for hearing. On dated 12.09.2019, the

inspection party informed the respondent institution for inspection on dated 26.08.2019, but Principal of the college expressed his inability to produce the relevant documents before the inspection party and submitted that the minority status of the respondent no. 1 institution is doubtful. He has also submitted copy of letter dated 07.08.2019 and 28.08.2019.

18. Regional Education Deputy Director, Darbhanga official of respondent no. 2 has also submitted their report and stated that looking in the facts and circumstances of the case this Commission can reconsider the minority status given to respondent no. 1 institution. On dated 13.01.2020 Director of Education Department, Research and Training has also sent a letter to this Commission and stated that they have constituted joint inspection party and joint inspection party has submitted that respondent no. 1 minority educational institution has failed to admit 50% students belonging to the minority community in the institution as per the rules and regulations and the contention of the respondent institution that 24% Buddhist, 4% Jain and 21% Muslim students admission seems to be wrong. The work of respondent no. 1 institution is not upto the mark for the development and welfare of the minority community and in these circumstances the said MSC can be reconsidered by this Commission. He has filed the following documents before this Commission :-

- (i) Copy of letter dated 02.09.2019 of S.M. Zaheer Alam Teachers' Training College
- (ii) Copy of notification dated 11.10.2009 of Dr. S.M. Naqui Imam Dental College & Hospital, Bahera, Darbhanga
- (iii) Copy of General notice dated 13.10.2009
- (iv) Copy of letter dated 04.06.2018 of Department of Registration
- (v) Copy of RMJ notification dated 30.06.2012
- (vi) Copy of RMJ press release dated 03.07.2012 in Dainik Jagran
- (vii) Copy of Hon'ble Supreme Court of India order dated 26.09.2014 in SLA (C) No. 25008-25009 of 2014
- (viii) Copy of Sub Judge-III, Darbhanga order dated 06.12.2017 in title suit no. 189 of 2014 / 326 of 2015
- (ix) Copy of Hon'ble High Court of Patna order dated 04.10.2012 in Civil Writ Jurisdiction No. 16119 of 2012
- (x) Copy of Hon'ble High Court of Patna order dated 07.11.2012 in Letters Patent Appeal No. 1791 of 2012
- (xi) Copy of Hon'ble High Court of Patna order dated 04.08.2014 in Letters Patent Appeal No. 394 of 2014
- (xii) Copy of Sub Judge-III, Darbhanga order dated 07.06.2016 in title suit no. 189 of 2014 / 326 of 2015

- (xiii) Copy of Hon'ble High Court of Patna order dated 30.08.2016 in Civil Misc. Jurisdiction No. 781 of 2016
- (xiv) Copy of the minutes of the meeting and decision dated 02.08.2013
- (xv) Copy of resolution dated 22.09.2015
- (xvi) Copy of religion wise data of admitted students on dated 01.09.2019
- (xvii) Copy of list of B.Ed. Admitted students in the academic session 2016-18 on dated 29.06.2016
- (xviii) Copy of list of B.Ed. Admitted students in the academic session 2017-19 on dated 30.07.2017
- (xix) Copy of list of B.Ed. Admitted students in the academic session 2018-20
- (xx) Copy of list of B.Ed. Admitted students in the academic session 2019-21
- (xxi) Copy of Auditors Report dated 28.06.2012
- (xxii) Copy of Balance Sheet as on 31.03.2012
- (xxiii) Copy of Income and Expenditure Statement as on 31.03.2012
- (xxiv) Copy of Receipts and Payments Account as on 31.03.2012
- (xxv) Copy of Schedule Fixed Assets forming part of Balance sheet
- (xxvi) Copy of Schedule of Fixed Deposit in Bank during the Financial Year 2011-12
- (xxvii) Copy of Auditors Report dated 12.07.2013
- (xxviii) Copy of Balance Sheet as on 31.03.2013
- (xxix) Copy of Income and Expenditure Statement as on 31.03.2013
- (xxx) Copy of Receipts and Payments Account as on 31.03.2013
- (xxxi) Copy of Schedule Fixed Assets forming part of Balance sheet
- (xxxii) Copy of Schedule of Fixed Deposit in Bank during the Financial Year 2012-13
- (xxxiii) Copy of Audit Report 2013-14
- (xxxiv) Copy of Auditors Report dated 30.07.2014
- (xxv) Copy of Balance Sheet as on 31.03.2014
- (xxvi) Copy of Income and Expenditure Statement as on 31.03.2014
- (xxvii) Copy of Receipts and Payments Account as on 31.03.2014
- (xxviii) Copy of Schedule Fixed Assets forming part of Balance sheet
- (xxix) Copy of Schedule of Fixed Deposit in Bank during the Financial Year 2013-14
- (xxx) Copy of Audit Report 2014-15
- (xxxi) Copy of Auditors Report dated 12.09.2015
- (xxxii) Copy of Balance Sheet as on 31.03.2015
- (xxxii) Copy of Income and Expenditure Statement as on 31.03.2015
- (xxxiv) Copy of Receipts and Payments Account as on 31.03.2015
- (xxxv) Copy of Schedule Fixed Assets forming part of Balance sheet
- (xxxvi) Copy of Schedule of Fixed Deposit in Bank during the Financial Year 2014-15
- (xxxvii) Copy of Audit Report 2015-16
- (xxxviii) Copy of Auditors Report dated 12.04.2016
- (xxxix) Copy of Balance Sheet as on 31.03.2016
- (xxxx) Copy of Income and Expenditure Statement as on 31.03.2016
- (xxxxi) Copy of Receipts and Payments Account as on 31.03.2016
- (xxxxii) Copy of Schedule Fixed Assets forming part of Balance sheet
- (xxxxiii) Copy of Schedule of Fixed Deposit in Bank during the Financial Year 2015-16
- (xxxxiv) Copy of Auditors Report dated 24.09.2017
- (xxxxv) Copy of Balance Sheet as on 31.03.2017
- (xxxxvi) Copy of Income and Expenditure Statement as on 31.03.2017
- (xxxxvii) Copy of Receipts and Payments Account as on 31.03.2017
- (xxxxviii) Copy of Schedule Fixed Assets forming part of Balance sheet
- (xxxxix) Copy of Schedule of Fixed Deposit in Bank during the Financial Year 2016-17
- (xxxxx) Copy of Auditors Report dated 31.10.2018
- (xxxxxi) Copy of Balance Sheet as on 31.03.2018

- (xxxxxii) Copy of Income and Expenditure Statement as on 31.03.2018
- (xxxxxiii) Copy of Receipts and Payments Account as on 31.03.2018
- (xxxxxiv) Copy of Schedule Fixed Assets forming part of Balance sheet
- (xxxxxv) Copy of Schedule of Fixed Deposit in Bank during the Financial Year 2017-18
- (xxxxxvi) Copy of Building Completion Certificate dated 19.05.2016 with land conversion certificate
- (xxxxxvii) RMJ notification dated 03.06.2019
- (xxxxxviii) S.M. Zaheer Alam Teacher's Training College letter dated 04.07.2016

19. We have heard Shri S.M. Naiyer Imam, petitioner no. 1 as well as Mr. Saifi Ahmad, Advocate for respondent no. 1 and perused the written arguments, pleadings of the parties, documents filed by parties, order and judgements of courts and also considered the file of case no. 1029 of 2016 by which this Commission has granted MSC to the S.M. Zaheer Alam Teachers Training College, At & PO Bahera, District Darbhanga (Bihar)-847201 and also previous files of this Commission and taking the totality of circumstances into consideration our decision is as follows :-

20. It is an admitted fact that respondent no. 1 has filed an application for grant of MSC before this Commission on dated 11.07.2016 to the S.M. Zaheer Alam Teachers Training College, At & PO Bahera, District Darbhanga (Bihar)-847201 and on first hearing on dated 14.07.2016 following order was passed by this Commission :-

“A petition for grant of minority status certificate has been received from S.M. Zaheera Alam Teachers Training College, At & PO Bahera, District Darbhanga, Bihar. It be registered. It is stated in the petition that the petitioner institution had applied to the State Government for grant of minority status certificate on 01.12.2015 and the said application is still pending. Issue notice to the respondent with a direction to apprise the Commission about the status of the said application. Direct the petitioner to produce original documents on the next date. Also direct the petitioner to file an affidavit of the Manager / Headmaster / Principal of the petitioner institution in support of the averments made in the petition. Dasti as well. List on 16.08.2016.”

21. Thereafter on dated 16.08.2016 this Commission has passed the following ex-parte order for grant of MSC :-

“It is stated in the petition that on 01.12.2015 the petitioner institution had applied to the State Government for grant of minority status certificate and the same is still pending.

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Relying on the said un rebutted evidence produced on behalf of the petitioner, we find and hold that S.M. Zaheer Alam Teachers Training College, At & PO Bahera, District Darbhanga, Bihar-847201 run by the Rauf Muslim Jamia 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. Consequently, S.M. Zaheera Alam Teachers Training College, At & PO Bahera, District Darbhanga, Bihar is declared as a minority educational institution within the meaning of Section 2(g) of the National Commission for Minority Educational Institutions Act. A minority status certificate be issued accordingly. The minority status certificate be given Dasti.”

22. It is pertinent to mention here that respondent no. 1 has filed the petition for grant of MSC before this Commission on dated 11.07.2016 and this petition was registered on 14.07.2016 by the Commission. On next date of hearing i.e. 16.08.2016 above petition was accepted and MSC was granted in favour of the respondent institution without taking any report from the office of the Commission that whether earlier any petition was filed by the institution or not, in the said respect, as per the general practice of the Commission, but we restraint ourselves making any adverse comments in this respect.
23. Petitioners have challenged the above order dated 16.08.2016 under section 12(c) of the NCMEI Act, 2004 by this petition. It is also an admitted fact that respondent no. 1 has given declaration in the application on dated 11.07.2016 for grant of MSC that the particulars furnished above are true to the best of his knowledge and belief and that if any detail is found on verification / inspection to be false, the Commission shall cancel the MSC awarded to the institution. The decision of the Commission in this regard shall be final.
24. It is an admitted fact that in civil suit no. 189 of 2014 / 326 of 2015, learned sub judge on dated 07.06.2016 has passed the following order :-

“Accordingly, Mr. Naiyer Azam S/o Late M.S. Usmani, who was nominated as member by the then President S.M. Zafar Imam / Defendant No. 2 in the admitted Governing Body of the parties issued vide Notification No. 07/RMJ-S/10 dated 16.03.2010, is hereby appointed as Receiver of the “Rauf Muslim Jamia” society who shall look after the affairs related to admission and examination of the society till further orders. He is further directed to submit quarterly report before this court regarding the activities of the society.”

25. Respondent no. 1 has not mentioned a single word about the said litigation and appointment of receiver in application for grant of MSC in case no. 1029 of 2016. In our considered opinion this amounts suppression of material fact from this Commission. It is for the Commission to take into consideration or not of above order, but it is the legal duty of the respondent no. 1 to bring into knowledge of the Commission about the said important fact of appointment of receiver. It is true that above order dated 07.06.2016 was set aside by the Hon'ble High Court of Patna (Bihar) vide Civil Misc. Case No. 781 of 2016 order dated 30.08.2016 but this is an admitted fact that at the time of filing the application for grant of MSC before this Commission and also at the time of passing the order for grant of MSC, appointment of receiver order is effective and in existence so the matter was subjudice before the Civil Court having the jurisdiction. In our considered opinion this also amount suppression of material fact from this Commission.
26. Section 12(C) of the NCMEI Act, 2004 enumerates circumstances under which a MSC granted to a minority educational institution can be cancelled by this Commission, and if a MSC has been obtained by practicing fraud or if there is any suppression of any material facts or any fundamental change of circumstances warranting cancellation of earlier order, the NCMEI would be within its power to cancel the MSC. It is also relevant to mention that the MSC granted by this Commission can be cancelled under section 12(c) of the NCMEI Act, 2004 on violation of any of the conditions enumerated therein, and if on verification of the records it is found that the minority educational institution failed to admit students belonging to minority community in the institution as per rules and prescribed percentage governing admissions during any academic year, this Commission can cancel MSC under section 12(c) (b) of the NCMEI Act, 2004.
27. Mr. Anwar Halim Anwar, Principal vide his affidavit dated 08.07.2016 filed before this Commission in case no. 1029 of 2016 specifically says that

“admission of current session (2016-18) is under process and that the admission in the current academic session 2016-18 and break up of minority population communitywise are : Muslim 16%, Buddhist 24% and Jain 5%, Total 45%”, but both the facts are not correct. Respondent No. 1 has given explanation that by the typing error into the process, since the dates for admission were between 29.06.2016 to 31.06.2016 and due to the typing error the statement of Principal is not false. He has also given explanation as per the resolution dated 02.08.2013 of the governing body of RMJ Society, reservation to be given for 24% Buddhist, 5% Jain and 21% Muslim students to complete the criteria of 50% reservation to minority students, but could not be included in the affidavit of Mr. Anwar Halim Anwar, Principal due to an inadvertent error. In our considered opinion above both the facts are against the respondent no. 1. Mr. Anwar Halim Anwar, Principal has not given any affidavit for the above error and only respondent no. 1 has given above explanation which is not acceptable. In the facts and circumstances of the present case, we are of the considered opinion that above false statement is given by respondent no. 1 before this Commission and also suppress the material fact from this Commission.

28. In the application dated 11.07.2016 for grant of MSC, respondent no. 1 has stated in Col. No. 2 that the applicant institution had earlier never applied to the NCMEI for grant of MSC, but as per the petitioner no. 1, institution has applied twice for grant of MSC to S.M. Zaheer Alam Teachers Training College, PO Bahera, District Darbhanga (Bihar) which was rejected twice by this Commission vide letter no. 10197 dated 02.08.2006, file no. 1272 of 2006 and letter no. 49338 dated 04.01.2011 vide file no. 2409 of 2010. For above facts respondent no. 1 has given explanation that he has no knowledge of the above facts, moreover there is no resolution or decision of society to apply for MSC before this Commission and therefore, if any application made, was of without authority and of no consequence. Governing body of the society has taken resolution on dated 22.09.2015 to apply for MSC before this Commission. We

have perused the record of this Commission, it is an admitted fact that in file no. 1272 of 2006 following order has been passed by this Commission :-

“An application has been received from the petitioner for injuncting the Vigilance Police or the State Government not to proceed further till the issue is decided by this Commission. The NCMEI Act does not empower the Commission to issue the interim relief as sought by the petitioner. Consequently, the application is dismissed. Petitioner be informed accordingly.”

29. Secretary of the S.M. Zaheer Alam Teachers Training College, PO Bahera, District Darbhanga, Bihar has sent a representation to the Hon'ble Minister of Human Resource Development, Govt. of India and a copy thereof has been sent to this Commission, so the case was registered as case no. 1059 of 2006. Then petitioner has sent the application for grant of MSC on dated 17.01.2007 following order has been passed in above case by this Commission :

“Learned counsel for the respondent states that identical relief has been sought by the petitioner in filing a writ petition before the Patna High Court. Since the matter is sub-judice before the High Court of Patna, it would not be appropriate for this Commission to interfere in the matter at this stage. The petition is disposed of accordingly.”

In above case, petitioner has again sent an application for grant of MSC and this Commission has again passed the following order on dated 13.04.2009 :-

“By the Order dated 17.01.2007, the petition was dismissed on the ground that one of the issue raised in the matter is sub-judice before the Patna High Court. The petitioner has again sent an application for grant of minority status certificate. Since the matter is sub-judice before the Patna High Court, it would not be appropriate to intervene in the matter. The petition is dismissed.”

30. Petitioner Shri S.M. Naiyer Imam, Secretary of the RMJ again sent a petition for grant of MSC to S.M. Zaheer Alam Teachers Training College, PO Bahera, District Darbhanga, Bihar and this Commission has registered as Case No. 2409 of 2010 and following order has been passed by this Commission on 08.12.2010 :-

“A petition has been received from the S.M. Zaheer Alam Teachers Training College, PO Bahera, District Darbhanga, Bihar-847201 for grant of minority status certificate. It be registered. It is stated in the petition that on 15.12.2006 the petitioner had applied to the competent authority of the State Government for grant of minority status certificate that is factually incorrect. In fact

on 15.05.2006 the petitioner had applied to this Commission for grant of minority status certificate.

By the order dated 13.04.2009, the petition was dismissed on the ground that the matter is subjudice before the Patna High Court. However, it transpires from the record that the petitioner had not applied to the competent authority of the State Government for grant of minority status certificate. The petitioner is directed to do so. The petition is disposed of accordingly. Order be notified to the petitioner.

Record of Case No. 1059 of 2006 be tagged with the record of this case.”

Petitioner has again filed an application for grant of MSC and in above case no. 2409 of 2010 this Commission has again passed the following order on dated 27.04.2011 :-

“An application has been received from S.M. Zaheer Alam Teacher Training College for grant of minority status certificate. By the order dated 08.12.2010, the petitioner’s earlier petition was disposed of with the direction to apply to the State Government first for grant of minority status certificate. It appears that the petitioner had not applied to the State Government. Hence the application be filed.”

31. Petitioner has again filed petition for grant of MSC to S.M. Zaheer Alam Teachers Training College, PO Bahera, District Darbhanga, Bihar and this petition was registered as case no. 1321 of 2012 on dated 04.04.2013, this Commission has passed the following order :-

“Despite service of final notice, the petitioner has failed to produce original documents. There is no appearance on behalf of the petitioner. Consequently, the petition is dismissed for want of action on part of the petitioner. However, liberty is granted to the petitioner for filing a fresh petition for the same relief, if advised to do so. Order be notified to the petitioner.”

32. Thereafter, respondent no. 1, Shri S.M. Zafar Imam has filed application for grant of MSC before this Commission which was registered as case no. 1029 of 2016 and accepted as discussed above.
33. We have considered the above facts and in our considered opinion, respondent no. 1 has suppressed the above material facts from the Commission. Respondent has not filed any copy of resolution dated 22.09.2015 in the previous file no. 1029 of 2016, so the theory of resolution also doubtful and not acceptable.

34. As per the application dated 11.07.2016 filed by the respondent no. 1 institution for grant of MSC, order sheet dated 14.07.2016 and order dated 16.08.2016 of this Commission, it is an admitted fact that the application for grant of MSC was pending before the State Competent Authority.
35. The NCMEI Act, 2004 was amended twice in order to further broad based and expand the functions as well as the quasi judicial powers of the NCMEI. The sections relevant for just decision of this case are set out here below :

“Section 10 :- Right to establish a Minority Educational Institution :-

(1) Subject to the provisions contained in any other law for the time being in force, any person, who desires to establish a Minority Educational Institution may apply to the competent authority for the grant of no objection certificate for the said purpose.”

(2) The Competent authority shall,—

(a) on perusal of documents, affidavits or other evidence, if any; and

(b) after giving an opportunity of being heard to the applicant, decide every application filed under sub-section (1) as expeditiously as possible and grant or reject the application, as the case may be: Provided that where an application is rejected, the Competent authority shall communicate the same to the applicant.

(3) Where within a period of ninety days from the receipt of the application under sub-section (1) for the grant of no objection certificate,—

(a) the Competent authority does not grant such certificate; or

(b) where an application has been rejected and the same has not been communicated to the person who has applied for the grant of such certificate, it shall be deemed that the Competent authority has granted a no objection certificate to the applicant.

(4) The applicant shall, on the grant of a no objection certificate or where the Competent authority has deemed to have granted the no objection certificate, be entitled to commence and proceed with the establishment of a Minority Educational Institution in accordance with the rules and regulations, as the case may be, laid down by or under any law for the time being in force.

Explanation —

For the purposes of this section —

(a) “applicant” means any person who makes an application under sub-section (1) for establishment of a Minority Educational Institution;

(b) “no objection certificate” means a certificate stating therein, that the Competent authority has no objection for the establishment of a Minority Educational Institution.

Section 12 A :-

(1) Any person aggrieved by the order of refusal to grant no objection certificate under sub-section (2) of section 10 by the Competent Authority for establishing a Minority Educational Institution, may prefer an appeal against such order to the Commission.

(2) An appeal under sub-section (1) shall be filed within thirty days from the date of the order referred to in sub-section (1) communicated to the applicant: Provided that the Commission may entertain an appeal after the expiry of the said period of thirty days, if it is satisfied that there was sufficient cause for not filing it within that period.

(3) An appeal to the Commission shall be made in such form as may be prescribed and shall be accompanied by a copy of the order against which the appeal has been filed.

(4) The Commission, after hearing the parties, shall pass an order as soon as may be practicable, and give such directions as may be necessary or expedient to give effect to its orders or to prevent abuse of its process or to secure the ends of justice.

(5) An order made by the Commission under sub-section (4) shall be executable by the Commission as a decree of a civil court and the provisions of the Code of Civil Procedure, 1908 (5 of 1908), so far as may be, shall apply as they apply in respect of a decree of a civil court.

Section 12B :- Power of Commission to decide on the minority status of an educational institution.

(1) Without prejudice to the provisions contained in the National Commission for Minorities Act, 1992 (19 of 1992), where an authority established by the Central Government or any State Government, as the case may be, for grant of minority status to any educational institution rejects the application for the grant of such status, the aggrieved person may appeal against such order of the authority to the Commission.

(2) An appeal under sub-section (1) shall be preferred within thirty days from the date of the order communicated to the applicant: Provided that the Commission may entertain an appeal after the expiry of the said period of thirty days, if it is satisfied that there was sufficient cause for not filing it within that period.

(3) An appeal to the Commission shall be made in such form as may be prescribed and shall be accompanied by a copy of the order against which the appeal has been filed.

(4) On receipt of the appeal under sub-section (5), the Commission may, after giving the parties to the appeal an opportunity of being heard, decide on the minority status of the educational institution and shall proceed to give such direction as it may deem fit and, all such directions shall be binding on the parties.”

36. As per the above provisions, the person who desires to establish minority institution is to apply to the competent authority of the State Government for grant of NOC for the said purpose under section 10 of the NCMEI Act, 2004. The Act of 2004 also conferred powers of appeal against orders of the competent authority of State to this Commission under section 12A as well as over authorities that were established by the Central Government or State Government who rejected application for grant of MSC to an educational institution under Section 12B of the NCMEI Act, 2004.

37. The Hon'ble Supreme Court in Civil Appeal No. 3945 of 2018 in the matter of Sisters of St. Joseph of Cluny V/s. The State of West Bengal and Ors. (2018) 6 SCC 772 vide order dated 18.4.2018 has also held that: -

“However, Section 10(1), which was introduced at the same time as Section 11(f) by the Amendment Act of 2006, carves out one facet of the aforesaid power contained in Section 11(f), namely the grant of a no objection certificate to a minority educational institution at its inception. Thus, any person who desires to establish a minority educational institution after the Amendment Act of 2006 came into force, must apply only to the competent authority for the grant of a no objection certificate for the said purpose. It is a little difficult to subscribe to Shri Hedge’s argument that the said powers are concurrent. Harmoniously read, all applications, for the establishment of a minority educational institution after the Amendment Act of 2006 must go only to the competent authority set up under the statute. On the other hand, for the declaration of its status a minority educational institution at any state post establishment, the NCMEI would have the power to decide the question and declare such institution’s minority status.”

38. Looking to the above provisions of NCMEI Act, 2004 and the judgement of Hon'ble Apex Court in the matter of Sisters of St. Joseph of Cluny (Supra), this Commission has both jurisdiction original as well as appellate, any educational institution who desires to establish minority educational institution has two options. Firstly, he can apply before an authority established by the Central Government or any State Government, Union Territory as the case may be for grant of MSC to any educational institution and if above authority rejected the application for grant of MSC, the aggrieved person may appeal against such order of the authority to this Commission under section 12B of NCMEI Act, 2004. Secondly, under Section 10 of NCMEI Act, 2004 whosoever desires to establish an minority educational institution has to apply the Competent Authority of the State Government for grant of NOC within a period of 90 days from the receipt of the application, if competent authority does not grant NOC or application has been rejected but not communicated to the appellant it shall be deemed that NOC has granted and the appellant can file application for grant of NOC straightaway to this Commission. Any person aggrieved by the order of

refused to grant NOC by the competent authority may prefer an appeal to this Commission under Section 12A of NCMEI Act, 2004.

39. In our considered opinion Educational Institution can opt one course, either to file application for grant of MSC before the State Competent Authority or to file application for grant of NOC. In the present case petitioner has applied for grant of MSC before the competent authority of the State.
40. In view of the above facts and observations, it is an admitted fact that the petitioner institution has applied to the State competent authority for grant of MSC on dated 01.12.2015 and the said application was still pending before the State competent authority at the time of filing application for grant of MSC. It is specifically mentioned in the order sheet dated 14.07.2016 and also in the final order of this Commission dated 16.08.2016 by which MSC was granted in favour of S.M. Zaheer Alam Teachers Training College, At & PO Bahera, District Darbhanga (Bihar)-847201. So in our considered opinion when the application for grant of MSC was pending before the State competent authority at the time of filing application and also at the time of passing the final order to grant MSC to the institution, then the petitioner has no right to file application to grant MSC before this Commission without final decision of the competent authority.
41. It is an admitted fact that petitioner has not applied for grant of NOC before the State competent authority under section 10 of the NCMEI Act, 2004. In this way petitioner has no right to file application for grant of MSC straightaway to this Commission till final decision of the competent authority of the State and the MSC granted to the institution vide case no. 1029 of 2016, order dated 16.08.2016 is not valid in the eye of law and deserve to be cancelled.
42. In the premise, the petition filed by the petitioners Shri S.M. Naiyer Imam and Shri Rohit Kumar succeeds and allowed. The impugned order dated 16.08.2016 passed by this Commission in favour of S.M. Zaheer Alam Teachers Training College, At & PO Bahera, District Darbhanga (Bihar)-847201 vide case no. 1029 of 2016 is hereby cancelled. Respondent No. 1 is directed to surrender their original MSC of this Commission within one month from the date of this order. However, it is made clear that S.M. Zaheer Alam Teachers

Training College, At & PO Bahera, District Darbhanga (Bihar)-847201 is free to move fresh application for grant of MSC as per the prevailing law.

43. In view of the above, the present petition is disposed of accordingly.

Signed, pronounced and published on **Thursday, 19th Day of August, 2021.**

**JUSTICE NARENDRA KUMAR JAIN
CHAIRMAN**

**DR. JASPAL SINGH
MEMBER**

VB