

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

Case No. 545 of 2019

In the matter of :-

St. Joseph's Arts and Science College for Women, South Singampunari Village, Nattamangalam Road, Singampunari Taluk, District Sivagangai, Tamil Nadu-630502

.....Petitioner

V/s

1) Principal Secretary, Health and Family Welfare Department, Govt. of Tamil Nadu

2) Principal Secretary, Higher Education Department, Government of Tamil Nadu, Fort St. George, Secretariat, Chennai, Tamil Nadu

..... Respondents

**Present: Mr. Jose Abraham, Advocate for the petitioner
None for the respondent**

ORDER

DATED 09.03.2023

Justice Narendra Kumar Jain, Chairman, NCMEI

1. This petition has been received on 30.05.2019 by hand through Mr. Jose Abraham, Advocate of the petitioner institution for grant of Minority Status Certificate (in short 'MSC') to St. Joseph's Arts and Science College for Women, South Singampunari Village, Nattamangalam Road, Singampunari Taluk, District Sivagangai, Tamil Nadu-630502.
2. Learned counsel for the petitioner filed an affidavit of Sr. M. Arockiam, President of Franciscan Sisters of St. Joseph, R/o FSJ Generalate, St. Louis Convent, St. Thomas Mount, Chennai, Tamil Nadu in support of the averments made in the petition and also to prove that the beneficiaries of the petitioner institution are members of the Christian minority community.
3. Learned counsel for the petitioner has filed copy of Unique ID No. : TN/2017/0152477 of the petitioner's Society as given by the Niti Aayog Portal NGO Darpan, notarized copy of NOC application dated 06.02.2019 sent to the State Competent Authority i.e. Principal

Secretary, Higher Education Department, Govt. of Tamil Nadu alongwith postal receipt and its tracking report, notarized copy of Certificate of Registration dated 26.02.1955 of The Third Order of Saint Francis of Assisi Sisters of Society, notarized copy of Certificate of Registration dated 18.10.1989 of Franciscan Sisters of St. Joseph, notarized copy of Memorandum of Association alongwith list of founding members of the Society, notarized copy of Amended Memorandum of Association alongwith list of present members of the Society, notarized copy of the Affiliation Order dated 02.11.2022 issued by the Registrar, Alagappa University to the unaided petitioner institution for the academic year 2022-23 and resolution of the General Body of the Society in favour of Sr. M. Arockiam, President of Franciscan Sisters of St. Joseph for obtaining MSC from this Commission. Learned Counsel for the petitioner has also filed the affidavit of Sr. M. Arockiam, President of Franciscan Sisters of St. Joseph regarding clarification of name of the petitioner society.

4. As per the information supplied by the unaided petitioner institution with regard to students strength as on 01.01.2019, it is mentioned that out of the total 102 students, 14 students are from the Christian minority community, 10 students are from Muslim minority community and 78 students are Hindus. It is relevant to mention here that out of total 12 teachers, 1 teacher is from Christian 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 this 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 06.02.2019, the petitioner institution has applied to the State Competent Authority for grant of NOC which was received by the State Competent Authority on 07.02.2019 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 26.09.2019, 27.12.2021 and 06.09.2022, respondent has sent replies dated 23.10.2019, 21.03.2020, 26.04.2022 and 03.10.2022 by post which were received by the Commission on 05.03.2020, 23.03.2022, 29.04.2022 and 07.10.2022. In the replies filed by the respondent, it is submitted that the petitioner had not applied for conferment of minority status of the said college to the Government of Tamil Nadu. Before exhausting the opportunity of applying to the Government of Tamil Nadu for minority status, the educational agency has approached the NCMEI directly. Further it is submitted that the educational agency of the college has not submitted any such application for conferment of minority status alongwith supportive documents to prove that the college has originally been started for the minority concerned and continuously being administered by the Minority and requested that the petition filed by the petitioner institution is unsustainable in law and is liable to be dismissed.
7. Learned Counsel for the petitioner filed subsequent pleadings and contended that the petitioner institution is a religious minority institution and run by Franciscan Sisters of St. Joseph which is a registered Society constituted by the members of the Christian minority community primarily for the benefit of Christian minority community. On dated 06.02.2019, the petitioner institution had submitted an application for grant of NOC under Section 10 of the NCMEI Act, 2004 before the

respondent. After the completion of 90 days from the date of receipt of the said application the petitioner institution applied for MSC before this Commission and this case is a fit case of intervention by this Commission. This Commission is functioning as per the NCMEI Act, 2004 read with the judicial pronouncements of the Apex Court for the purpose of declaration of MSC. Petitioner institution had applied for grant of NOC whereas the reply filed by the respondent does not even murmured a single word with regard to the receipt and further process of the said application for NOC, which is duly received by the respondent. In its reply, respondent has referred a couple of GOs like 375 dated 12.10.1998, 648 dated 03.08.1994. 270 dated 17.06.1998, and 214 dated 03.11.2018 and 144 dated 18.09.2014 with regard to the issuance of MSC by the State of Tamil Nadu. None of Govt. orders are dealing with the issuance of NOC under section 10 of the NCMEI Act, 2004, so instant case is a fit case for interference by this Commission. Hon'ble Supreme Court in Sisters of St. Joseph of Cluny Vs. The State of West Bengal (Civil Appeal No. 3945 of 2018) decision dated 18.04.2018 in which Hon'ble Supreme Court has settled the law with regard to the applicability of Section 10 and 11 of the NCMEI Act, 2004 and in view of the said pronouncement of the Hon'ble Supreme Court the stand taken by the respondent will not survive in the eye of law and, therefore, prayed that this Commission may issue MSC to the petitioner institution in the interest of justice and equity.

8. Heard the Learned Counsel for the petitioner, perused the pleading of the parties, the documents filed by the petitioner and affidavit of Sr. M. Arockiam, President of Franciscan Sisters of St. Joseph.
9. 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 Christian minority

community and is being administered by Franciscan Sisters of St. Joseph which is managed and run by the members of the Christian 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 Sr. M. Arockiam, President of Franciscan Sisters of St. Joseph.

10. 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 the members of the Christian minority community. In addition, the said facts 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 St. Joseph's Arts and Science College for Women, South Singampunari Village, Nattamangalam Road, Singampunari Taluk, District Sivagangai, Tamil Nadu-630502 run by Franciscan Sisters of St. Joseph 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 Christian minority community.
12. Consequently, St. Joseph's Arts and Science College for Women, South Singampunari Village, Nattamangalam Road, Singampunari Taluk, District Sivagangai, Tamil Nadu-630502, which is for Bachelor and Master Courses, is declared as an unaided 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 Christian minority community subject to the eligibility of the students and availability of the accommodation in the petitioner institution. If the petitioner institution failed to comply the above order of this Commission within a period of three months from the date of

order passed by this Commission then the petition filed by the petitioner for grant of MSC will be automatically deemed to be dismissed.

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, 9th Day of March, 2023.**

**JUSTICE NARENDRA KUMAR JAIN
CHAIRMAN**

**DR. JASPAL SINGH
MEMBER**

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