

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

Case No. 192 of 2020

In the matter of :-

**Vimala Hridaya English Medium School, Clappana P.O.,
Karunagapally, District Kollam, Kerala-690525**

..... Petitioner

V/s

Secretary, General Education Department, Govt. of Kerala

..... Respondent

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

ORDER

DATED 07.04.2022

Justice Narendra Kumar Jain, Chairman, NCMEI

1. This petition has been received on 07.02.2020 by hand through Mr. Jose Abraham, Advocate of the petitioner institution for grant of Minority Status Certificate (in short 'MSC') to Vimala Hridaya English Medium School, Clappana P.O., Karunagapally, District Kollam, Kerala-690525.
2. Learned counsel for the petitioner filed an affidavit of Sr. Rexia Mary, President of Congregation of the Franciscan Sisters of the Immaculate Heart of Mary 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. : KL/2017/0114954 of the petitioner's Society as given by the Niti Aayog Portal NGO Darpan, copy of application dated 24.12.2018 sent to State Competent Authority i.e. Secretary, General Education Department, Govt. of Kerala for grant of No Objection Certificate (in short 'NOC') alongwith postal receipt and its tracking report, notarized copy of Certificate of Registration of Congregation of the Franciscan Sisters of the Immaculate Heart of Mary, certified copy of Memorandum of Association alongwith list of founding

members of the Society, certified copy of Amended Memorandum of Association alongwith list of present members of the Society, notarized copy of Recognition Order dated 14.05.2015 issued by Additional Chief Secretary to Govt, Govt. of Kerala to the unaided petitioner institution from the Academic Year 2015-16 onwards for 1st to 7th Std. in Malyalam language alongwith its English translation and resolution of the General Body of the Society in favour of Sr. Rexia Mary, President of Congregation of the Franciscan Sisters of the Immaculate Heart of Mary for obtaining MSC from this Commission. In Col. No. 1(a) of the MSC application the Unique ID provided by Niti Aayog portal NGO Darpan mentioned by the petitioner institution is KL/2017/0157528 but the Unique ID submitted with the MSC application is KL/2017/0114954 and in Col. No. 6 of the application for grant of MSC, petitioner institution level is upto Secondary and physical inspection report dated 05.03.2022 is also mentioned that students are studying from 1st to 10th Std. in the petitioner institution but in the Recognition Order dated 14.05.2015 issued by the Additional Chief Secretary to Govt pertains to 1st to 7th Std.

4. As per the information supplied by the petitioner institution with regard to student strength, it is mentioned that out of the total 429 students, 114 students are from the Christian minority community, 23 students are from Muslim Minority Community and 292 students are Hindus. It is relevant to mention here that out of total 21 teachers, 11 teachers are 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 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.
5. It is stated in the petition that on dated 24.12.2018, the petitioner institution has applied to the State Competent Authority for grant of

NOC which was received by the State Competent Authority on 26.12.2018 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. Despite service of registered notice dated 09.03.2020, 13.10.2020 and 19.08.2021, none appeared on behalf of 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 20.01.2022, after service of notice to the physical inspection committee dated 04.02.2022, District Educational Officer, Kollam sent the physical inspection committee report vide letter dated 05.03.2022 which was received in the Commission's office on dated 14.03.2022 wherein they have not mentioned any negative remarks/comments to grant MSC to the petitioner institution.
7. Heard the Learned Counsel for the petitioner, perused the pleading of petitioner institution, the documents filed by the petitioner and affidavit of Sr. Rexia Mary, President of Congregation of the Franciscan Sisters of the Immaculate Heart of Mary.
8. 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 Congregation of the Franciscan Sisters of the Immaculate Heart of Mary 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. Rexia Mary, President of Congregation of the Franciscan Sisters of the Immaculate Heart of Mary.

9. 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 Christian 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.
10. Relying on the said unrebutted evidence produced on behalf of the petitioner, we find and hold that Vimala Hridaya English Medium School, Clappana P.O., Karunagapally, District Kollam, Kerala-690525 run by Congregation of the Franciscan Sisters of the Immaculate Heart of Mary 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.
11. Consequently, Vimala Hridaya English Medium School, Clappana P.O., Karunagapally, District Kollam, Kerala-690525, which is from 1st to 10th Std.(Secondary), 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 Christian minority community subject to the eligibility of the students and availability of the accommodation in the petitioner institution, updated recognition order issued by State Board / CBSE to the petitioner institution and proper Unique ID issued by the Niti Aayog portal NGO Darpan or clarification about the Unique ID. 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.

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 Thursday, **7th Day of April, 2022.**

**JUSTICE NARENDRA KUMAR JAIN
CHAIRMAN**

**DR. JASPAL SINGH
MEMBER**

**DR. SHAHID AKHTER
MEMBER**

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