

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

Case No. 29 of 2022

In the matter of :-

**Mangalayatan University, 33rd Milestone, Extended NCR,
Mathura Aligarh Highway, PO : Beswan, Aligarh, Uttar
Pradesh-202145**

..... Petitioner

V/s

**1. Additional Chief Secretary, Department of School
Education, Govt. of Uttar Pradesh, Bahu Khandi,
Secretariat, Lucknow, Uttar Pradesh**

**2. Principal Secretary, Department of Education, Govt. of Uttar
Pradesh, New Building, Uttar Pradesh, Hazratganj,
Lucknow-226001**

..... Respondents

Present: Ms. Bahist E Jahan, Advocate for the petitioner
None for the respondent

ORDER

DATED 15.12.2022

Justice Narendra Kumar Jain, Chairman, NCMEI

1. This petition has been received on 28.02.2022 by hand through Mr. Sumar Veer Singh, Registrar of Mangalayatan University and Mr. Hemant Kumar Goyal, Chairman of Acharya Kund Kund Educational Society, Vimlanchal Hari Nagar Gopalpuri, Aligarh, Uttar Pradesh-202001 for grant of Minority Status Certificate (in short 'MSC') to Mangalayatan University, 33rd Milestone, Extended NCR, Mathura Aligarh Highway, PO : Beswan, Aligarh, Uttar Pradesh-202145 (hereinafter referred to as University).
2. On behalf of the Mangalayatan University, Mr. Sumar Veer Singh, Registrar filed an affidavit in support of the averments made in the petition and also to prove that the beneficiaries of the petitioner University are members of the Jain minority community.
3. The petitioner University has filed copy of Unique ID No. : UP/2017/0120409 of the petitioner's Society as given by the Niti Aayog Portal NGO Darpan, certified copy of Society Renewal

Certificate dated 26.12.2020, 12.02.2016, 26.10.2022, 31.01.2007 of Acharya Kund Kund Educational Society, Vimlanchal Hari Nagar Gopalpuri, Aligarh, Uttar Pradesh-202001, Deed and Bye Laws and Amended Bye Laws , List of founding and present members of the Society, copy of NOC application dated 21.10.2021 under Section 10 of the NCMEI Act, 2004 submitted to the UP State Competent Authority original application dated 11.06.2019 sent to the State Competent Authority received by Higher Education Department, Section -1 on dated 21.10.2021, Copy of Permanent Account No. (PAN) of Acharya Kund Kund Educational Society dated 26.10.2005, Copy of Permanent Account No. (PAN) of Mangalayatan University dated 11.05.2007, Copy of GST Registration certificate, certified copy of Mangalayatan University Uttar Pradesh Act, 2006 (UP Act No. 32 of 2006), Copy of UP Private University Act, 2019 (UP Act No. 12 of 2019), Amended Act of UP of 2021, Copy of permanent letter from UGC dated Feb, 2012, Copy of Permission letter dated 11.05.2007 from Govt. of UP to run the University, Copy of Society Resolution in favour of Registrar of Mangalayatan University, Copy of letter dated 04.08.2016, copies of Income Tax Returns of Mangalayatan University, Affidavit of Shri Sidharth Jain, Member of Executive Council of Mangalayatan University.

4. As per the information supplied by the unaided petitioner institution with regard to students strength, it is mentioned that in the petitioner University, out of the total 4126 students, 138 students are from the Jain minority community, 752 students are from the Muslim minority community, 37 students are from the Christian minority community, 13 students are from Sikh minority community and 3186 students are Hindus. It is relevant to mention here that out of total 203 teachers, 4 teachers are from Jain 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 21.10.2021, the petitioner University has applied to the State Competent Authority for grant of No Objection Certificate (NOC) and the said application is still pending before the State Competent Authority. State Competent Authority has not granted NOC in favour of the petitioner University 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 straightway to this Commission as per the provisions of Section 10 of NCMEI Act, 2004.
6. Despite service of registered notices dated 19.10.2022, none appeared on behalf of the respondent State and no reply has been filed by both the respondents. Therefore in the facts and circumstances of the case we proceeded ex-parte against the respondent. We have heard Learned Counsel for the petitioner University Mrs. Ms. Bahist E Jahan, perused the pleading of the petitioner University, the documents filed by the petitioner University and affidavits of Mr. Sumar Veer Singh, Registrar of the Mangalayatan University, Shri Sidharth Jain, Member of Executive Council of Mangalayatan University sponsored by Acharya Kund Kund Educational Society.
7. The petitioner University has applied for grant of minority status certificate on the ground that the same has been founded / established by the Acharya Kund Kund Educational Society, Vimlanchal Hari Nagar Gopalpuri, Aligarh, Uttar Pradesh-202001, constituted by the members of the Jain minority community and incorporated under the Mangalayatan University UP Act of 2006, UP Act No. 32 of 2006 (hereinafter referred to as UP Act, 32). It is also alleged by the petitioner University that the University is being established and administered by the majority members of the Jain

minority community and especially meant primarily for the benefits of Jain minority boys and girls and as such it is entitled to be declared minority educational institution within the meaning of Section 2(g) of the NCMEI Act, 2004. The aforesaid averments made in the petition find ample corroboration from the documentary evidence produced on behalf of the petitioner University and the affidavits of Mr. Sumar Veer Singh, Registrar of the Mangalayatan University, Shri Sidharth Jain, Member of Executive Council of Mangalayatan University sponsored by Acharya Kund Kund Educational Society

8. The Amended Bye Laws of Acharya Kund Kund Educational Society, Vimlanchal Hari Nagar Gopalpuri, Aligarh, Uttar Pradesh-202001, all the documents produced on behalf of the by the petitioner University clearly reflects that the beneficiaries of the petitioner University are primarily the members of the Jain minority community. In addition, the said facts also stands proved from the documents and affidavits filed on behalf of the petitioner University. There is no reply or document on record to rebut the above affidavits and documents produced on behalf of the petitioner University.
9. A Bare reading of the provisions of the UP Act No. 32 of 2006 made it clear that the Mangalayatan University was founded / established by the Acharya Kund Kund Educational Society, Vimlanchal Hari Nagar Gopalpuri, Aligarh, Uttar Pradesh-202001 with the object for encouraging private section to participate in the field of Higher Education and to open college to impart education primarily to the Jain minority community students and others in general. The Mangalayatan University produced copy of registration certificate and Bye Laws of the Acharya Kund Kund Educational Society, Vimlanchal Hari Nagar Gopalpuri, Aligarh, Uttar Pradesh-202001 clearly shows that majority members of the Society are from Jain minority community. It becomes proved that the Mangalayatan University was founded by the Acharya Kund Kund Educational Society, Vimlanchal Hari Nagar Gopalpuri,

Aligarh, Uttar Pradesh-202001 and incorporated under the UP Act No. 32 of 2006. Thereafter, another act incorporated by the State of UP “The UP Private University Act 2019 (UP Act No. 12 of 2019) for all private Universities in the Uttar Pradesh State to bring all the private Universities under the provisions of an umbrella act and Mangalayatan University Act has been subsumed in Uttar Pradesh Umbrella Act, 2019 to provide for establishments of new private Universities and incorporation of existing private Universities in the State of UP under this Act for imparting higher education and to regulate their functions and for matters connected therewith or incidental thereto.” In Article 62 of this Act, it is mentioned that all the acts enumerated in Schedule 1 to this Act shall stand repealed on the commencement of this Act. It means the earlier all acts are repealed by this Act, name of Mangalayatan University in Schedule 1 at Sr. No. 3. Article 63 of this Act also mentioned for minority private Universities as under :

“Notwithstanding anything contained in this Act the University established by a religious or linguistic minority of the State of Uttar Pradesh, shall continue to have the privileges as guaranteed by Article 30 of the Constitution of India.”

In continuation of above act an another Act, “The UP Private Universities Amended Act 2021” was also incorporated and three (3) Universities included in Schedule 2 of the main act of 2019.

10. It is not in dispute that “to found” is one of the meaning of the verb “to establish”, “to bring into existence” is another meaning of the verb “to establish”. The UP Act No. 32 of 2006 clearly spells out that the sponsoring body of the University is Acharya Kund Kund Educational Society, Vimlanchal Hari Nagar Gopalpuri, Aligarh, Uttar Pradesh-202001 as defined in (S) of Section 2 of UP Act 32 of 2006 that the “University” means the Mangalayatan University, UP established under this Act by the Society.
11. The Mangalayatan University, UP Act 32 of 2006 clearly shows that the University is also being administered by the Acharya Kund Kund Educational Society, Vimlanchal Hari Nagar Gopalpuri,

Aligarh, Uttar Pradesh-202001. Said society was established by the majority members of Jain minority community. Section 5(1) of the UP Act 32 of 2006 provided that the University shall start operation only after State Govt. issues to the Society a letter of authorization for the commencement of the functioning of the University. Sub Section (2) of the Section 5 of the above act no. 32 of 2006 also provided that the State Govt. shall issue the letter of authorization on receipt of an unambiguous affidavit alongwith documents from the society to the effect that all conditions referred to in Section 4 have been fulfilled. It would be appropriate to refer to the Govt. of UP letter no. 982 dated 11.05.2007 which is as under :-

संख्या – 982/सत्तर-1-2007-20(1)/2006

प्रेषक,

जगन्नाथ पाल
संयुक्त सचिव
उत्तर प्रदेश शासन

सेवा में,

अध्यक्ष
आचार्य कुन्दकुन्द एजुकेशनल सोसायटी
अलीगढ़

उच्च शिक्षा अनुभाग -1

लखनऊ दिनांक 11 मई 2007

विषय : मंगलायतन विश्वविद्यालय के प्रचालन के लिए प्राधिकार पत्र

महोदय,

उपयुक्त विषयक आपके पत्रांक एमयू/06-07/एडमि/यूपीएचई/04 दिनांक 7 मई 2007, जिसके साथ संलग्न असंदिग्ध शपथ पत्र द्वारा इस तथ्य का उल्लेख किया गया है कि प्रायोजक सोसायटी द्वारा मंगलायतन विश्वविद्यालय, उत्तर प्रदेश अधिनियम 2006 की धारा 4 में विहित शर्तों को पूर्ण कर लिया गया है, के संदर्भ में री राज्यपाल उक्त अधिनियम की धारा-5 की उपधारा (2) में निहित शक्ति का प्रयोग करते हुए मंगलायतन विश्वविद्यालय के प्रचालन हेतु प्राधिकार पत्र निर्गत करने की स्वीकृति सहर्ष प्रदान करते हैं।

भवदीय,

(जगन्नाथ पाल)
संयुक्त सचिव

12. It is also pertinent to mention that the letter of authority dated 11.05.2007 was issued by the UP Govt. was communicating the orders of Hon'ble Governor of UP to start functioning of Mangalayatan University with effect from the May, 2007
13. From the above facts and documents, we find and hold that Mangalayatan University, 33rd Milestone, Extended NCR, Mathura Aligarh Highway, PO : Beswan, Aligarh, Uttar Pradesh-202145 has been established and is being administered by the majority members of the Jain minority community. Needless to add here that Mangalayatan University is established to subserve the purpose of its establishment whereas the minority have the right to establish and administer educational institution of their choice with the desire that their children should be brought up properly and be eligible for higher education and go all over the world fully equipped with such intellectual attainments as it will make them fit for entering the public services, surely then there must be implicit in such a fundamental right the corresponding duty to cater to the needs of the children of their own community.
14. Relying on the said unrebutted evidence produced on behalf of the petitioner University, we find and hold that Mangalayatan University, 33rd Milestone, Extended NCR, Mathura Aligarh Highway, PO : Beswan, Aligarh, Uttar Pradesh-202145 run by Acharya Kund Kund Educational Society, Vimlanchal Hari Nagar Gopalpuri, Aligarh, Uttar Pradesh-202001 is eligible for grant of minority status on religious basis. The evidence also proves that the said University was established with the main objective of subserving the interests of the Jain minority community.
12. Consequently, for the aforesaid reasons, Mangalayatan University, 33rd Milestone, Extended NCR, Mathura Aligarh Highway, PO : Beswan, Aligarh, Uttar Pradesh-202145, 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 Jain minority community subject to the eligibility of the students and availability of the accommodation in the petitioner institution, Affidavit of Mr. Hemant Kumar Goyal, Chairman of Acharya Kund Kund Educational Society, Vimlanchal Hari Nagar Gopalpuri, Aligarh, Uttar Pradesh-202001 in support of the averments made in the petition and also to prove that the beneficiaries of the petitioner institution are members of the Jain minority community and resolution of the General Body of the Society in favour of Mr. Hemant Kumar Goyal, Chairman of Acharya Kund Kund Educational Society, Vimlanchal Hari Nagar Gopalpuri, Aligarh, Uttar Pradesh-202001 for obtaining MSC from this Commission. 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, 15th Day of December, 2022.**

**JUSTICE NARENDRA KUMAR JAIN
CHAIRMAN**

**DR. JASPAL SINGH
MEMBER**

**DR. SHAHID AKHTER
MEMBER**

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