

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

Case No. 108 of 2022

In the matter of :-

**St. Joseph of Tarbes School, Kundoor P.O., District Thrissur,
Kerala-680734**

.....Petitioner

V/s

**Director, Directorate of Minority Welfare, Government of Kerala,
4th Floor, Vikas Bhavan, Thiruvananthapuram, Kerala**

..... Respondent

Present: Mr. Jose Abraham, Advocate for the petitioner

ORDER

DATED 01.09.2022

Justice Narendra Kumar Jain, Chairman, NCMEI

1. This petition has been received on 08.07.2022 by hand through Mr. Jose Abraham, Advocate of the petitioner institution for grant of Minority Status Certificate (in short 'MSC') to St. Joseph of Tarbes School, Kundoor P.O., District Thrissur, Kerala-680734.
2. Learned counsel for the petitioner filed an affidavit of Sr. Rosaline Noronha, Secretary of The Society of St. Joseph 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. : KA/2017/0180966 of the petitioner's Society as given by the Niti Aayog Portal NGO Darpan, copy of application dated 25.09.2021 sent to the State Competent Authority i.e. Director, Directorate of Minority Welfare, Government of Kerala, 4th Floor, Vikas Bhavan, Thiruvananthapuram, Kerala, notarized copy of Certificate of Registration of The Society 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

recognition order dated 26.10.2020 issued by the Joint Secretary (Aff), CBSE to the unaided petitioner institution for the period from 01.04.2020 to 31.03.2023 for Secondary School Examination Class 1 to 10th and resolution of the General Body of the Society in favour of Sr. Rosaline Noronha, Secretary of The Society of St. Joseph for obtaining MSC from this Commission.

4. As per the information supplied by the petitioner unaided institution with regard to students strength in the year 2021-22, it is mentioned that out of total 237 students, 142 students are from the Christian minority community, 15 students are from the Muslim minority community and 80 students are Hindus. It is relevant to mention here that out of the 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. Earlier the petitioner institution has filed application for grant of NOC which was registered as Case No. 83 of 2019 and the case was decided by the Commission on dated 11.03.2021 by the following observation :-

“In view of the above facts and observations, it is an admitted fact that the petitioner institution had applied to Competent Authority of the State of Kerala for grant of NOC under Section 10 of NCMEI Act, 2004 and the said application was not decided in accordance with the provisions of NCMEI Act, 2004 and verdict of the Hon'ble Apex Court by the State competent authority and passed the impugned order 08.03.2019. So in the interest of justice, we are of the considered opinion, without going on the merits of the case, it is just proper and fit case to send the matter back to the State Competent Authority to decide the application of the petitioner institution for grant of NOC under Section 10 of the NCMEI Act, 2004 on merits after considering all the documents produced by the petitioner institution at the earliest, expeditiously.

Office is directed to send copy of this order to the State Competent Authority and in the interest of justice, in addition the petitioner institution is also directed to produce certified copy of this order before the State Competent Authority immediately for compliance of this order.

In view of above, the present petition is disposed of in accordance with this order.”

Thereafter, the petitioner institution has filed application for grant of NOC before the State Competent Authority on dated 25.09.2021 and that application was accepted by the State Competent Authority and the following order dated 28.05.2022 has been passed :-

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“The application alongwith its supporting documents was examined in detail and the applicant was heard on 09.11.2021.

The District Collector as per the reference 4 cited after conducting Physical verification of the institution and after scrutiny of records and registers has recommended for grant of No Objection Certificate to the Secondary Level of the institution.

On hearing the applicant institution and upon scrutiny of relevant records and after perusing the report of the District Collector, Thrissur it has been found and the institution is functioning with the objective of subserving the interest of the minority community and hence eligible to be granted No Objection Certificate.

In the Circumstances No Objection Certificate is granted to the Secondary Section of St. Joseph of Tarbes School, Kundoor P.O., Thrissur Dist. for the purpose of applying for the Minority Status Certificate from the competent authority.”

6. Heard the Learned Counsel for the petitioner, perused the pleading of the petitioner institution, the documents filed by the petitioner and affidavit of Sr. Rosaline Noronha, Secretary of The Society of St. Joseph.
7. 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 The Society 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. Rosaline Noronha, Secretary of The Society of St. Joseph.

8. 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.
9. We have perused the order No. 6561/MSA/2021/DMW dated 28.05.2022 passed by the State Competent Authority. By the above order State Competent Authority of Kerala has granted NOC in favour of the petitioner institution.
10. Relying on the said unrebutted evidence produced on behalf of the petitioner, we find and hold that St. Joseph of Tarbes School, Kundoor P.O., District Thrissur, Kerala-680734 run by The Society 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.
11. Consequently, St. Joseph of Tarbes School, Kundoor P.O., District Thrissur, Kerala-680734, which is for Secondary School Examination Class 1 to 10th is declared as an minority unaided 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.
12. After compliance of the above order, a minority status certificate be issued accordingly.

13. However, it is made clear that if State Govt. has any objection in granting MSC in favour of the petitioner institution i.e. St. Joseph of Tarbes School, Kundoor P.O., District Thrissur, Kerala-680734, is free to file an application for cancellation of MSC under section 12(c) of the NCMEI Act, 2004.
14. In view of the above, the present petition is disposed of in accordance with this order.

Signed, pronounced and published on **Thursday, 1st Day of September, 2022.**

**JUSTICE NARENDRA KUMAR JAIN
CHAIRMAN**

**DR. JASPAL SINGH
MEMBER**

**Dr. SHAHID AKHTER
MEMBER**

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