

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

Case No. 97 of 2023

In the matter of :-

**Carmel English Medium School, Thakazhy P.O., Kuttanadu,
District Alappuzha, Kerala-688562**

.....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 28.03.2023

Justice Narendra Kumar Jain, Chairman, NCMEI

1. This petition has been received on 10.03.2023 by hand through Mr. Jose Abraham, Advocate of the petitioner institution for grant of Minority Status Certificate (in short 'MSC') to Carmel English Medium School, Thakazhy P.O., Kuttanadu, District Alappuzha, Kerala-688562.
2. Learned counsel for the petitioner filed an affidavit of Sr. Annie Prasanna, President of Carmel English Medium School Educational and Charitable Trust 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 and stating 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.
3. Learned counsel for the petitioner has filed copy of Unique ID No.: KL/2018/0193009 of the petitioner's Trust as given by the Niti Aayog Portal NGO Darpan, copy of application dated 01.12.2018 sent to State Competent Authority i.e. Secretary, General Education Department, Govt. of Kerala, copy of application dated 15.11.2021

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 order no. 7751/MSC/2021/DMW dated 04.01.2023 passed by the State Competent Authority, notarized copy of Supplementary Trust Deed dated 17.05.2018 (Trust name change from “Congregation of Mother of Carmel” to “Carmel English Medium School Educational and Charitable Trust”), notarized copy of Trust Deed dated 21.11.2018, copy of Affiliation order dated 06.08.2021 issued by the Deputy Secretary / Joint Secretary (Aff), CBSE to the unaided petitioner institution from 01.04.2022 to 31.03.2027 for the Secondary / Senior Secondary Level and resolution of the General Body of the Trust in favour of Sr. Annie Prasanna, President of Carmel English Medium School Educational and Charitable Trust 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 2020-21, it is mentioned that out of total 426 students, 210 students were from the Christian minority community, 9 students were from the Muslim minority community and 207 students were Hindus, in the year 2021-22, it is mentioned that out of total 361 students, 168 students were from the Christian minority community, 8 students were from the Muslim minority community and 185 students were Hindus and in the year 2022-23, it is mentioned that out of total 377 students, 185 students are from the Christian minority community, 8 students are from the Muslim minority community and 184 students are Hindus. It is relevant to mention here that in the year 2020-21, out of the total 22 teachers, 13 teachers were from Christian Minority community, in the year 2021-22, out of the total 15 teachers, 7 teachers were from Christian Minority community, in the year 2022-23, out of the total 19 teachers, 8 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. This Commission has also decided that there must be reasonable strength of students of particular minority community in a minority educational institution. The percentage could be determined based on the actual proportion of specific minority community in the State population as per prevailing census.

5. Earlier the petitioner institution has filed petition for grant of MSC on dated 24.02.2020 which was registered as Case No. 243 of 2020 and the case was decided by the Commission on dated 08.09.2021 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 14.03.2019. 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 15.11.2021 and that application was accepted by the State Competent Authority and the following order dated 04.01.2023 has been passed :-

“The application alongwith the supporting documents has been examined in detail and also heard the authorized representative of the applicant on 07.04.2022. As the application for NOC has been found prima facie admissible, the application has been referred to the District Collector, Alappuzha for inspection in the institution and report.

As per the reference 4 cited, The District Collector, Alappuzha after conducting physical verification of the institution and scrutiny of records and registers, has reported the eligibility of the educational institution of the applicant for Minority Status and also recommended for grant of No Objection Certificate for the purpose to the Secondary level of the Institution.

In these circumstances, on the facts revealed in hearing the authorized representative of the applicant institution and by the scrutiny of all relevant records in original submitted while hearing and after considering the report and recommendation of the District Collector, Alappuzha, it has been found that the Secondary Section of Carmel English Medium School, Thakazhy P.O., Kuttanadu, District Alappuzha, Kerala-688562 has been functioning with the objective of subserving the interest of the Christian minority community and the institution satisfies all other eligibility conditions for becoming a minority educational institution. Therefore, the Secondary section of Carmel English Medium School, Thakazhy P.O., Kuttanadu, District Alappuzha, Kerala-688562 has been granted No Objection Certificate for the purpose of obtaining Minority Status Certificate, under Section 10 of the National Commission for Minority Educational Institution Act, 2004.”

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. Annie Prasanna, President of Carmel English Medium School Educational and Charitable Trust. In fact and circumstances of the case, need not to give notice of this petition, because respondent has granted NOC in favour of the petitioner institution.
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 Carmel English Medium School Educational and Charitable Trust 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. Annie Prasanna, President of Carmel English Medium School Educational and Charitable Trust.

8. We have perused the Supplementary Trust Deed of the petitioner institution which was registered before the Sub Registrar on dated 23.03.2018 which is before the grant of NOC applications U/s 10 of the NCMEI Act, 2004 dated 01.12.2018, 15.11.2021 and petition for grant of MSC on dated 10.03.2023. So it is clear that the amendment has been done before the application filed before the State Competent Authority U/s 10 of the NCMEI Act, 2004 and also petition for grant of MSC before this Commission.
9. The Supplementary Trust Deed 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. We have perused the order No. 7751/MSC/2021/DMW dated 04.01.2023 passed by the State Competent Authority. By the above order State Competent Authority of Kerala has granted NOC in favour of the petitioner institution.
11. Relying on the said unrebutted evidence produced on behalf of the petitioner, we find and hold that Carmel English Medium School, Thakazhy P.O., Kuttanadu, District Alappuzha, Kerala-688562 run by Carmel English Medium School Educational and Charitable Trust 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, Carmel English Medium School, Thakazhy P.O., Kuttanadu, District Alappuzha, Kerala-688562, which is for Secondary / Senior Secondary Level, is declared as a 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.

13. A minority status certificate be issued accordingly.
14. However, it is made clear that if State Govt. has any objection in granting MSC in favour of the petitioner institution i.e. Carmel English Medium School, Thakazhy P.O., Kuttanadu, District Alappuzha, Kerala-688562, is free to file an application for cancellation of MSC under section 12(c) of the NCMEI Act, 2004.
15. In view of the above, the present petition is disposed of in accordance with this order.

Signed, pronounced and published on **Tuesday, 28th Day of March, 2023.**

**JUSTICE NARENDRA KUMAR JAIN
CHAIRMAN**

**DR. JASPAL SINGH
MEMBER**

**Dr. SHAHID AKHTER
MEMBER**

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