

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

Case No. 325 of 2019

In the matter of :-

**Aligarh Public School, 89/209. Bewis Compound, Bans Mandi,
Kanpur, Uttar Pradesh-208001**

..... **Petitioner**

V/s

**1. Secretary, Department of Higher Education, Government of Uttar
Pradesh**

**2. Additional Chief Secretary, Department of School Education, Govt.
of Uttar Pradesh**

..... **Respondent**

**Present: Mr. Junais P, Advocate for the petitioner
None for the respondent**

ORDER

DATED 06.09.2022

Justice Narendra Kumar Jain, Chairman, NCMEI

1. This petition has been received on 01.05.2019 by hand through Mr. Junais P, Advocate of the petitioner institution for grant of Minority Status Certificate (in short 'MSC') to Aligarh Public School, 89/209. Bewis Compound, Bans Mandi, Kanpur, Uttar Pradesh-208001.
2. Learned Counsel for the petitioner filed an affidavit of Shri Ehteshamul Islam, President of Bismillah Educational and Cultural Foundation and the authorized representative of the applicant institution i.e. Aligarh Public School, 89/209. Bewis Compound, Bans Mandi, Kanpur, Uttar Pradesh-208001 in support of the averments made in the petition and also to prove that the beneficiaries of the petitioner institution are members of the Muslim minority community.
3. Learned counsel for the petitioner has filed notarized copy of Unique ID No. : UP/2018/0213015 of the petitioner's Society as given by the Niti Aayog Portal NGO Darpan, notarized copy of NOC application dated 11.12.2018 sent to the State Competent Authority i.e. Secretary, Department of Higher Education, Govt. of Uttar Pradesh alongwith its postal slip and tracking report, notarized copy of Certificate of Registration of Bismillah Educational and Cultural Foundation, 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 31.12.2021 issued by the District Basic Education Officer, Kanpur to the unaided petitioner institution for Pre to 8th Std. from the Academic Session 2016-17 and resolution of the General Body of the Society in favour of Shri Ehteshamul Islam, President of Bismillah Educational and Cultural Foundation for obtaining MSC from this Commission. Learned Counsel for the petitioner also filed the affidavit for clarification of Shri Ehteshamul Islam, President of Bismillah Educational and Cultural Foundation stating that the MSC application dated 01.05.2019 and NOC application dated 11.12.2018 signed by him only.

4. As per the information supplied by the petitioner unaided institution with regard to students strength as on 23.01.2019, it is mentioned that out of total 340 students, 210 students are from the Muslim minority community and 130 students are Hindus. It is relevant to mention here that out of the total 14 teachers, 10 teachers are from Muslim 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 11.12.2018, the petitioner institution has applied to the State Competent Authority for grant of NOC which was received by the State Competent Authority on 13.12.2018 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 10.06.2019 and 17.11.2021, respondent has not sent reply. 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 04.05.2022, after service of notice to the physical inspection committee dated 10.05.2022 and 14.07.2022, District Basic Education Officer, Kanpur sent the physical inspection committee report through post vide letter dated 08.08.2022. We have perused the inspection report, in col. no. 12, members of the Committee written 'No'. Learned Counsel for the petitioner submitted that in the Col. No. 12, learned members of the physical inspection committee thought that this Col. is for aided or un-aided, that's why physical inspection committee answered 'No' otherwise there is no adverse comments to grant MSC to the petitioner institution.

7. Heard the Learned Counsel for the petitioner, perused the pleading of the petitioner institution, the documents filed by the petitioner and affidavit of Shri Ehteshamul Islam, President of Bismillah Educational and Cultural Foundation.
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 Muslim minority community and is being administered by the Bismillah Educational and Cultural Foundation which is managed and run by the members of the Muslim 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 Shri Ehteshamul Islam, President of Bismillah Educational and Cultural Foundation.
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 Muslim 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 Aligarh Public School, 89/209. Bewis Compound, Bans Mandi, Kanpur, Uttar Pradesh-208001 run by Bismillah Educational and Cultural Foundation 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 Muslim minority community.

11. Consequently, Aligarh Public School, 89/209. Bewis Compound, Bans Mandi, Kanpur, Uttar Pradesh-208001, which is for Pre to 8th Std., 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 Muslim 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.
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 **Tuesday, 6th Day of September, 2022.**

**JUSTICE NARENDRA KUMAR JAIN
CHAIRMAN**

**DR. JASPAL SINGH
MEMBER**

**DR. SHAHID AKHTER
MEMBER**

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