

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

Case No. 139 of 2020

In the matter of :-

**Angel's Abode Public School, Gram Badagaon Khurd,
Tikamgarh, Madhya Pradesh-472001**

.....Petitioner

V/s

**Secretary, Backward Classes and Minority Welfare
Department, Govt. of MP, Room No. 339, Mantralaya, Bhopal,
MP**

..... Respondent

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

ORDER

DATED 25.04.2023

Justice Narendra Kumar Jain, Chairman, NCMEI

1. This petition has been received on 09.01.2020 by hand through Mr. Junais P, Advocate of the petitioner institution for grant of Minority Status Certificate (in short 'MSC') to Angel's Abode Public School, Gram Badagaon Khurd, Tikamgarh, Madhya Pradesh-472001.
2. Learned counsel for the petitioner filed an affidavit of Mr. Manish Jain, Secretary of Jains New Children's Educational Foundation 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.
3. Learned counsel for the petitioner has filed notarized copy of Unique ID No. : MP/2017/0152131 of the petitioner's Society as given by the Niti Aayog Portal NGO Darpan, notarized original application dated 28.05.2019 sent to the State Competent Authority i.e. Secretary, Backward Classes and Minority Welfare Department, notarized copy of Certificate of Registration of Jains New Children's Educational Foundation, notarized copy of Memorandum of Association alongwith list of founding members

of the Society, notarized copy of Amended Memorandum of Association dated 26.11.2016 alongwith list of present members of the Society, notarized copy of affiliation order dated 01.10.020 issued by the Deputy Secretary / Joint Secretary (Affiliation), CBSE to the unaided petitioner institution for Senior Secondary Level from 01.04.2021 to 31.03.2026 and resolution of the General Body of the Society in favour of Mr. Manish Jain, Secretary of Jains New Children's Educational Foundation for obtaining MSC from this Commission.

4. It transpires from the record that Petitioner has filed three Governing Board Resolutions before the Commission. First Governing Board Resolution filed by the petitioner on dated 12.04.2022 wherein society has authorized Sh. Manish Jain, Secretary of the petitioner's society to file petition before this Commission and another Governing Board Resolution was filed by the petitioner before the Commission on dated 20.07.2022, which is a coloured photocopy and signature of Rajkumar Jain is slightly different from earlier signature on Governing Board Resolution. By this resolution society has authorized to file NOC before the state competent authority to Sh. Rakesh Tadaiya, which also belongs to Jain community as per submission of learned counsel for the petitioner. Third Governing Board Resolution filed by the petitioner before the Commission on dated 28.09.2022 by which society has authorized Sh. Rakesh Tadaiya, President of the petitioner society to file NOC application before the state competent authority for grant of NOC under Section 10 of the NCMEI Act but signature of Sh. Rajkumar Jain is missing. This is one of the oldest cases of this Commission.
5. As per the information supplied by the unaided petitioner institution with regard to students strength in Academic Year 2019-20, it is mentioned that out of the total 1275 students, 330 students are from the Jain minority community, 55 students are from Muslim minority community, 3 students are from Christian minority community, 1 student is from Sikh minority community

and 886 students are Hindus. It is relevant to mention here that in Academic Year 2019-20, it is mentioned that out of the total 53 teachers, 12 teachers are from the 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. This Commission has also decided in many cases as per the judgement of Hon'ble Apex Court in T.M.A. Pai Foundation Vs The State of Karnataka (2002) 8 SCC 481, a minority whether linguistic or religious is determinable only by reference to demography of the State and not by taking into consideration the population of the country as a whole. We are aware of the Buckley Judgement passed by this Commission but there must be reasonable strength of students of minority community in a minority institution and in our considered opinion the percentage could be determined based on the actual proportion of specific minority community in the State population as per prevailing census.

6. It is stated in the petition that on dated 28.05.2019, the petitioner institution has applied to the State Competent Authority for grant of NOC which was received by the State Competent Authority on 10.06.2019 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.

7. After service of registered notice/email dated 19.02.2020 and 05.11.2020, no reply / response has been received from 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 24.08.2021, after service of letter / email to the physical inspection committee dated 27.08.2021, Physical Inspection Committee, Tikamgarh has sent physical inspection report dated 11.11.2021 which was received in the Commission's Office on dated 16.11.2021 wherein they have recommended to grant MSC to the petitioner institution.
8. Heard the Learned Counsel for the petitioner, perused the pleading of the petitioner, the documents filed by the petitioner and affidavit of Mr. Manish Jain, Secretary of Jains New Children's Educational Foundation.
9. 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 Jain minority community and is being administered by Jains New Children's Educational Foundation which is managed and run by the members of the Jain 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 Mr. Manish Jain, Secretary of Jains New Children's Educational Foundation.
10. We have perused the Amended Memorandum of Association of the petitioner institution which was registered before the Assistant Registrar on dated 26.11.2016 which is before the filing of NOC applications U/s 10 of the NCMEI Act, 2004 dated 28.05.2019 and petition for grant of MSC on dated 09.01.2020. 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.

11. The Amended Memorandum of Association dated 26.11.2016 and all the documents produced by the petitioner institution clearly reflects that the beneficiaries of the petitioner institution are primarily the members of the Jain minority community. In addition, the said facts 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.
12. Relying on the said unrebutted evidence produced on behalf of the petitioner, we find and hold that Angel's Abode Public School, Gram Badagaon Khurd, Tikamgarh, Madhya Pradesh-472001 run by Jains New Children's Educational 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 Jain minority community.
13. Consequently, Angel's Abode Public School, Gram Badagaon Khurd, Tikamgarh, Madhya Pradesh-472001, which is for Senior Secondary Level, 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. 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.
14. After compliance of the above order, a minority status certificate be issued accordingly.

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

Signed, pronounced and published on **Tuesday, 25th Day of April, 2023.**

**JUSTICE NARENDRA KUMAR JAIN
CHAIRMAN**

**DR. JASPAL SINGH
MEMBER**

**DR. SHAHID AKHTER
MEMBER**

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