

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

Case No. 01 of 2023

In the matter of :-

**Indore Public School, NH-59, Kishanpuri, Gram Gadwada,
Jhabua, Madhya Pradesh-457661**

..... **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 19.04.2023

Justice Narendra Kumar Jain, Chairman, NCMEI

1. This petition has been received on 08.12.2022 by hand through Mr. Junais P, Advocate of the petitioner institution for grant of Minority Status Certificate (in short 'MSC') to Indore Public School, NH-59, Kishanpuri, Gram Gadwada, Jhabua, Madhya Pradesh-457661.
2. Learned counsel for the petitioner filed an affidavit of Mr. Achal Choudhary Jain, President of Indo Education and Services Society and the authorized representative of the applicant institution i.e. Indore Public School, NH-59, Kishanpuri, Gram Gadwada, Jhabua, Madhya Pradesh-457661 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/2017/0159683 of the petitioner's Society as given by the Niti Aayog Portal NGO Darpan, notarized

copy of application dated 01.11.2018 sent to the State Competent Authority i.e. Secretary, Backward Classes and Minority Welfare Department alongwith postal receipt and its tracking report, notarized copy of Certificate of Registration of Indo Education and Services Society, 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 affiliation order dated 03.10.2020 issued by the Deputy Secretary / Joint Secretary (Affiliation), CBSE to the unaided petitioner institution for Secondary / Senior Secondary Level from 01.04.2020 to 31.03.2025 and resolution of the General Body of the Society in favour of Mr. Achal Choudhary Jain, President of Indo Education and Services Society for obtaining MSC from this Commission.

4. As per the information supplied by the unaided petitioner institution with regard to students strength in Academic Year 2020-21, it is mentioned that out of the total 744 students, 159 students were from the Jain minority community, 26 students were from Muslim minority community, 9 students were from Christian minority community and 550 students were Hindus, in Academic Year 2021-22, it is mentioned that out of the total 574 students, 157 students were from the Jain minority community, 27 students were from Muslim minority community, 6 students were from Christian minority community and 384 students were Hindus, in Academic Year 2022-23, it is mentioned that out of the total 604 students, 118 students are from the Jain minority community, 17 students are from Muslim minority community, 6 students are from Christian minority community and 463 students are Hindus. It is relevant to mention here that in Academic Year

2020-21, it is mentioned that out of the total 33 teachers, 3 teachers were from the Jain minority community, in Academic Year 2021-22, it is mentioned that out of the total 33 teachers, 3 teachers were from the Jain minority community, in Academic Year 2022-23, it is mentioned that out of the total 33 teachers, 2 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.

5. It is stated in the petition that on dated 01.11.2018, the petitioner institution has applied to the State Competent Authority for grant of NOC which was received by the State Competent Authority on 05.11.2018 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. After service of registered notice/email dated 10.01.2023, respondent has sent letter dated 31.01.2023 which was received in the Commission's office on dated 07.02.2023, is taken on record. Physical Inspection Committee, Jhabua has sent physical inspection report dated 06.03.2023 in case no. 164 of 2022 which is pertaining to this case, which was received in the Commission's Office on dated 09.03.2023 wherein they have recommended to grant MSC to the petitioner institution.
7. Heard the Learned Counsel for the petitioner, perused the pleading of the petitioner, the documents filed by the petitioner and affidavit of Mr. Achal Choudhary Jain, President of Indo Education and Services Society.
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 Jain minority community and is being administered by Indo Education and Services Society 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. Achal Choudhary Jain, President of Indo Education and Services Society.
9. We have perused the Amended Memorandum of Association of the petitioner institution which was registered before the

Sub Registrar on dated 29.09.2017 which is before the filing of NOC applications U/s 10 of the NCMEI Act, 2004 dated 01.11.2018 and petition for grant of MSC on dated 08.12.2022. 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.

10. The Amended Memorandum of Association dated 29.09.2017 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.
11. Relying on the said un rebutted evidence produced on behalf of the petitioner, we find and hold that Indore Public School, NH-59, Kishanpuri, Gram Gadwada, Jhabua, Madhya Pradesh-457661 run by Indo Education and Services Society 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.
12. Consequently, Indore Public School, NH-59, Kishanpuri, Gram Gadwada, Jhabua, Madhya Pradesh-457661, which is for Secondary / 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.

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 **Wednesday, 19th Day of April, 2023.**

**JUSTICE NARENDRA KUMAR JAIN
CHAIRMAN**

**DR. JASPAL SINGH
MEMBER**

**DR. SHAHID AKHTER
MEMBER**

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