

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

Case No. 749 of 2019

In the matter of :-

**Jamiatul Iqra Arabic Institute, Gandhi Nagar, Zaidpur
Dehat, Nawabganj, District Barabanki, Uttar
Pradesh-225414**

.....Petitioner

V/s

- 1. Additional Chief Secretary, Department of School
Education, Bahu Khandi, Secretariat, Lucknow, Uttar
Pradesh**
- 2. Additional Chief Secretary, Department of Higher
Education, Bahu Khandi, Secretariat, Lucknow, Uttar
Pradesh**
- 3. Principal Secretary, Department of School Education,
Govt. of Uttar Pradesh**
- 4. Additional Chief Secretary, Minority Welfare and Waqf
Department, Bahu Khandi, Secretariat, Lucknow, Uttar
Pradesh**

..... Respondents

**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 26.09.2019 by hand
through Mr. Junais P. Advocate of the petitioner institution for
grant of Minority Status Certificate (in short 'MSC') to Jamiatul
Iqra Arabic Institute, Gandhi Nagar, Zaidpur Dehat,
Nawabganj, District Barabanki, Uttar Pradesh-225414.**
- 2. Learned counsel for the petitioner filed an affidavit of
Dr. Afzalurrahman, Manager of Iqra Educational Society and
the authorized representative of the applicant institution i.e.
Jamiatul Iqra Arabic Institute, Gandhi Nagar, Zaidpur Dehat,
Nawabganj, District Barabanki, Uttar Pradesh-225414 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/2015/0093270 of the petitioner's Society as given by the Niti Aayog Portal NGO Darpan, notarized copy of application dated 04.06.2019 sent to the State Competent Authority i.e. Additional Chief Secretary, Department of Higher Education alongwith postal receipt and its tracking report, notarized copy of Certificate of Registration of Iqra Educational 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 the Permanent Recognition Certificate dated 26.06.2014 issued by the Registrar and Inspector, UP Madarsa Education Council, Lucknow to the unaided petitioner institution for Tahtania (Class 1st to 5th), Fokania (Class 6th to 8th) and Aaliya(Munshi and Molvi Class 9th to 10th) and resolution of the General Body of the Society in favour of Dr. Afzalurrahman, Manager of Iqra Educational Society for obtaining MSC from this Commission.
4. As per the information supplied by the unaided petitioner institution with regard to students strength as on 2019, it is mentioned that out of the total 325 students, 257 students are from the Muslim minority community and 68 students are Hindus. It is relevant to mention here that as on 2019, all 15 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 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 04.06.2019, the petitioner institution has applied to the State Competent Authority for grant of NOC which was received by the State Competent Authority on 07.06.2019 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.
6. After service of registered notice/email dated 29.11.2019, 07.01.2021, 09.11.2021, 16.03.2022 and 07.07.2022, respondent has sent letter dated 18.07.2022 which was

received in the Commission's office on dated 25.07.2022. 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 19.07.2022, despite service of letters, reminders / emails to the physical inspection committee dated 27.07.2022, 16.09.2022, 21.09.2022, 31.10.2022, 06.12.2022, 21.01.2023 and 02.03.2023, no report has been received from the Physical Inspection Committee Members. Pendency of the said application for grant of NOC and inspection report from the Committee members for such a disproportionately long period clearly indicates Government's disinclination to grant NOC to the petitioner institution and sending physical inspection report by the Committee members. Petitioner's rights to get MSC cannot be kept under suspended animation in this oldest case of this Commission. In this view of the matter, it is a fit case for intervention by this Commission.

7. Heard the Learned Counsel for the petitioner, perused the pleading of the petitioner, the documents filed by the petitioner and affidavit of Dr. Afzalurrahman, Manager of Iqra Educational 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 Muslim minority community and is being administered by Iqra Educational Society 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 Dr. Afzalurrahman, Manager of Iqra Educational Society.

9. We have perused the Amended Memorandum of Association of the petitioner institution which was registered before the Sub Registrar on dated 28.11.2016 which is before the filing of NOC applications U/s 10 of the NCMEI Act, 2004 dated 04.06.2019 and petition for grant of MSC on dated 26.09.2019. 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 28.11.2016 and all the documents produced by the petitioner institution clearly reflects that the beneficiaries of the petitioner institution are primarily the members of the Muslim 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 unrebutted evidence produced on behalf of the petitioner, we find and hold that Jamiatul Iqra Arabic Institute, Gandhi Nagar, Zaidpur Dehat, Nawabganj, District Barabanki, Uttar Pradesh-225414 run by Iqra Educational 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 subserving the interests of the Muslim minority community.
12. Consequently, Jamiatul Iqra Arabic Institute, Gandhi Nagar, Zaidpur Dehat, Nawabganj, District Barabanki, Uttar Pradesh-225414, which is for Tahtania (Class 1st to 5th), Fokania (Class 6th to 8th) and Aaliya(Munshi and Molvi Class 9th to 10th), 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.

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**

VB