

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

Case No. 411 of 2020

In the matter of :-

R.C.M. Upper Primary School, Surada, Ganjam, Odisha-761108

..... Petitioner

V/s

Director, Elementary Education, 5th Floor, HOD Building, Unit-V, Bhubaneswar-1, Khordha, Odisha-751001

..... Respondent

Present: Ms. Anju Joseph, Advocate for the petitioner
None for the respondent

ORDER

DATED 20.04.2023

Justice Narendra Kumar Jain, Chairman, NCMEI

1. This petition has been received on 23.10.2020 by hand through Mr. Jose Abraham, Advocate of the petitioner institution for grant of Minority Status Certificate (in short 'MSC') to R.C.M. Upper Primary School, Surada, Ganjam, Odisha-761108.
2. Learned counsel for the petitioner filed an affidavit of Fr. Prodeep Chandra Nayak, Secretary, Berhampur Diocesan Catholic School Managing Committee 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.
3. Learned counsel for the petitioner has filed copy of Unique ID No. : OR/2017/0155215 of the petitioner's Society as given by the Niti Aayog Portal NGO Darpan, copy of application dated 24.12.2019 sent to the State Competent Authority i.e. Director, Elementary Education, Odisha alongwith postal receipt and its tracking report, notarized copy of Certificate of Registration of Berhampur Diocesan Catholic School Managing Committee, notarized copy of Memorandum of Association alongwith list of founding members of the Society, notarized copy of Amended Memorandum of Association dated 27.01.2017 alongwith list of

present members of the Society, original Recognition Certificate issued by the Block Education Officer, Surada, Ganjam to the aided petitioner institution and resolution of the General Body of the Society in favour of Fr. Prodeep Chandra Nayak, Secretary, Berhampur Diocesan Catholic School Managing Committee for obtaining MSC from this Commission.

4. As per the information supplied by the aided petitioner institution with regard to students strength as on 01.01.2020, it is mentioned that out of the total 218 students, 166 students are from the Christian minority community, 5 students are from Muslim minority community and 47 students are Hindus. It is relevant to mention here that as on 01.01.2020, all 5 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 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 24.12.2019, the petitioner institution has applied to the State Competent Authority for grant of NOC which was received by the State Competent Authority on

27.12.2019 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. Despite service of registered notice/email dated 11.11.2020 and 03.06.2022, 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 17.08.2022, after service of letters, reminder / emails to the physical inspection committee dated 14.09.2022, 04.11.2022 and 26.12.2022, Physical Inspection Committee, Ganjam, Chatrapur has sent physical inspection report dated 02.02.2023 which was received in the Commission's Office on dated 13.02.2023 wherein they have not mentioned any adverse/negative comments 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 Fr. Prodeep Chandra Nayak, Secretary, Berhampur Diocesan Catholic School Managing Committee.
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 Christian minority community and is being administered by Berhampur Diocesan Catholic School Managing Committee 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 Fr. Prodeep Chandra Nayak, Secretary, Berhampur Diocesan Catholic School Managing Committee.

9. We have perused the Amended Memorandum of Association of the petitioner institution which was registered before the Sub Registrar on dated 27.01.2017 which is before the filing of NOC applications U/s 10 of the NCMEI Act, 2004 dated 24.12.2019 and petition for grant of MSC on dated 23.10.2020. 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.
10. The Amended Memorandum of Association dated 27.01.2017 and all the documents produced by the petitioner institution clearly reflects that the beneficiaries of the petitioner institution are primarily the members of the Christian 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 R.C.M. Upper Primary School, Surada, Ganjam, Odisha-761108 run by Berhampur Diocesan Catholic School Managing Committee 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, R.C.M. Upper Primary School, Surada, Ganjam, Odisha-761108, which is for Upper Primary Level, is declared as an aided 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 Christian 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 **Thursday, 20th Day of April, 2023.**

**JUSTICE NARENDRA KUMAR JAIN
CHAIRMAN**

**DR. JASPAL SINGH
MEMBER**

**DR. SHAHID AKHTER
MEMBER**

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