

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

Case No. 750 of 2019

In the matter of :-

**G.D. Global School, Kartalpur Bypass, Palhani Azamgarh,
District Azamgarh, Uttar Pradesh-276001**

.....Petitioner

V/s

**1) Additional Chief Secretary, Department of School
Education, Govt. of Uttar Pradesh, Bahu Khandi,
Secretariat, Lucknow, Uttar Pradesh-226001**

**2) Additional Chief Secretary, Department of Secondary
Education, Bahukhandi Secretariat, Lucknow, Uttar
Pradesh-226001**

..... Respondents

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

ORDER

DATED 24.05.2023

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 G.D. Global School, Kartalpur Bypass, Palhani Azamgarh, District Azamgarh, Uttar Pradesh-276001.
2. Learned counsel for the petitioner filed an affidavit of Shri Gaurav Agrawal, Secretary of Babu Bhagwati Prasad Smriti Trust and the authorized representative of the applicant institution i.e. G.D. Global School, Kartalpur Bypass, Palhani Azamgarh, District Azamgarh, Uttar Pradesh-276001 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. : UP/2017/0157668 of the petitioner's Trust as given by the Niti Aayog Portal NGO Darpan, notarized copy of application dated 16.02.2019 sent to the State Competent

Authority i.e. Principal Secretary, Secondary Education, Department of Education alongwith its postal receipt and tracking report, notarized copy of Trust Deed dated 22.07.2013 of Babu Bhagwati Prasad Smriti Trust, notarized copy of Supplementary Trust Deed dated 07.04.2017, copy of Affiliation order dated 03.10.2020 issued by the Deputy Secretary / Joint Secretary (Aff), CBSE to the unaided petitioner institution from 01.04.2020 to 31.03.2025 for the Secondary / Senior Secondary Level and resolution of the General Body of the Trust in favour of Shri Gaurav Agrawal, Secretary of Babu Bhagwati Prasad Smriti Trust 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 total 705 students, 56 students are from the Jain minority community, 79 students are from the Muslim minority community, 8 students are from the Christian minority community, 2 students are from Sikh minority community, 33 students are from Buddhist minority community and 527 students are Hindus. It is relevant to mention here that as on 2019, out of the total 35 teachers, no teacher is from 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. Population of Jain minority community in the State of Uttar Pradesh as per the census of 2011 is 0.11%.

5. It is stated in the petition that on dated 16.02.2019, the petitioner institution has applied to the State Competent Authority for grant of NOC which was received by the State Competent Authority on 20.02.2019 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 29.11.2019 and 11.01.2021, no reply / respondent 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 19.04.2022, after service of letters / emails to the physical inspection committee dated 30.05.2022, 01.08.2022, 09.09.2022, 14.11.2022, 19.12.2022 and 10.02.2023, Physical Inspection Committee, Azamgarh has sent physical inspection report dated 03.02.2023 which was received in the Commission's Office on dated 07.02.2022 wherein they have recommended to grant MSC to the petitioner institution.
7. Heard the petitioner, perused the pleading of the petitioner, the documents filed by the petitioner and affidavit of Shri Gaurav Agrawal, Secretary of Babu Bhagwati Prasad Smriti Trust.

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 Babu Bhagwati Prasad Smriti Trust 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 Shri Gaurav Agrawal, Secretary of Babu Bhagwati Prasad Smriti Trust.
9. We have perused the Supplementary Trust Deed of the petitioner institution which was registered before the Deputy Registrar, Azamgarh on dated 07.04.2017 which is before the filing of NOC applications U/s 10 of the NCMEI Act, 2004 dated 16.02.2019 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 Supplementary Trust Deed dated 07.04.2017 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 unrebutted evidence produced on behalf of the petitioner, we find and hold that G.D. Global School, Kartalpur Bypass, Palhani Azamgarh, District Azamgarh, Uttar Pradesh-276001 run by Babu Bhagwati Prasad Smriti Trust 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, G.D. Global School, Kartalpur Bypass, Palhani Azamgarh, District Azamgarh, Uttar Pradesh-276001, 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, 24th Day of May, 2023.**

**JUSTICE NARENDRA KUMAR JAIN
CHAIRMAN**

**DR. JASPAL SINGH
MEMBER**

**DR. SHAHID AKHTER
MEMBER**

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