

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

Case No. 614 of 2019

In the matter of :-

**AGAPE Mission School, Gumniwala, By-Pass Road, Shyampur,
Rishikesh, Dehradun, Uttarakhand-249204**

..... Petitioner

V/s

**Deputy Chief Secretary (Upper Mukhya Sachiv), Higher
Education, Govt. of Uttarakhand**

..... Respondent

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

ORDER

DATED 11.05.2023

Justice Narendra Kumar Jain, Chairman, NCMEI

1. This petition has been received on 31.07.2019 by hand through Mr. Jose Abraham, Advocate of the petitioner institution for grant of Minority Status Certificate (in short 'MSC') to AGAPE Mission School, Gumniwala, By-Pass Road, Shyampur, Rishikesh, Dehradun, Uttarakhand-249204.
2. Learned counsel for the petitioner filed an affidavit of Rev. Vikrant Bhandari, Secretary of The Association for Garhwal's Advancement, Prosperity and Evangelization (AGAPE) 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. : UA/2017/0153409 of the petitioner's Society as given by the Niti Aayog Portal NGO Darpan, copy of application dated 07.01.2019 sent to the State Competent Authority i.e. Deputy Chief Secretary (Upper Mukhya Sachiv), Higher Education, Govt. of Uttarakhand alongwith its postal receipt and tracking report, notarized copy of Certificate of Registration of "The Association for Garhwal's Advancement, Prosperity and Evangelization (AGAPE)", notarized

copy of Memorandum of Association alongwith list of founding members of the Society, notarized copy of Amended Memorandum of Association dated 17.10.2017 alongwith list of present members of the Society, original affiliation letter dated 27.06.2018 issued by the Chief Executive Secretary, Council for the Indian School Certificate Examinations to the unaided petitioner institution for ICSE Xth Examinations and resolution of the General Body of the Society in favour of Rev. Vikrant Bhandari, Secretary of The Association for Garhwal's Advancement, Prosperity and Evangelization (AGAPE) for obtaining MSC from this Commission and Baptism Certificates of founding and present members of the Society. During the course of arguments, Learned Counsel for the petitioner stated that earlier the petitioner institution was upto Class Xth but now it is upgraded to Senior Secondary Level.

4. As per the information supplied by the unaided petitioner institution with regard to students strength as on 01.01.2019, it is mentioned that out of the total 450 students, 175 students are from the Christian minority community, 5 students are from the Muslim minority community and 278 students are Hindus. It is relevant to mention here that out of total 14 teachers, 7 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. Population of Christian minority community in the State of Uttarakhand as per the census of 2011 is 0.37%.

5. It is stated in the petition that on dated 07.01.2019, the petitioner institution has applied to the State Competent Authority for grant of NOC which was received by the State Competent Authority on 08.01.2019 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 dated 04.10.2019, respondent has sent letter dated 28.08.2019, 31.10.2019 and 19.07.2022 which were received in the Commission's Office on dated 03.09.2019, 08.11.2019 and 25.07.2022 respectively, are taken into record. 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 14.12.2021, after service of letters, reminder / emails to the physical inspection committee dated 27.12.2021, 20.05.2022, 14.07.2022, 01.11.2022, 02.12.2022 and 12.01.2023, Physical Inspection Committee, Dehradun has sent physical inspection report dated 22.07.2022 which was received in the Commission's Office on dated 27.07.2022 wherein they have not mentioned any adverse / negative remarks to grant MSC to the petitioner institution.
7. Heard the Learned Counsel for the petitioner, perused the pleading of the parties, the documents filed by the petitioner and affidavit of Rev.

Vikrant Bhandari, Secretary of The Association for Garhwal's Advancement, Prosperity and Evangelization (AGAPE).

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 The Association for Garhwal's Advancement, Prosperity and Evangelization (AGAPE) 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 Rev. Vikrant Bhandari, Secretary of The Association for Garhwal's Advancement, Prosperity and Evangelization (AGAPE).
9. We have perused the Amended Memorandum of Association of the petitioner institution which was registered before the Deputy Registrar of Firms, Societies and Chits on dated 17.10.2017 which is before the filing of NOC applications U/s 10 of the NCMEI Act, 2004 dated 07.01.2019 and petition for grant of MSC on dated 31.07.2019. 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. In this case after having heard arguments of the Learned Counsel for the petitioner, we have received an email from Mr. Chandra Bhushan Sharma on dated 27.04.2023 which is taken on record. In this email, it is submitted by the complainant that in the locality (area) the majority of families living are belong to Sanatan Hindu Dharma and comparatively Christians are almost negligible and this School also having majority of students belong to Sanatan Hindu Dharma only, hence the School is not fulfilling the criteria of minority institution so the school should not be grant minority status certificate.
11. We have perused the complaint and there is sufficient number of Christian minority students in the petitioner institution. As per census of 2011 in Uttarakhand, population of Christian minority community is 0.37% and if complainant has any objection in granting MSC in

favour of the petitioner institution i.e. AGAPE Mission School, Gumniwala, By-Pass Road, Shyampur, Rishikesh, Dehradun, Uttarakhand-249204, is free to file an application for cancellation of MSC under Section 12(c) of the NCMEI Act, 2004.

12. The Amended Memorandum of Association dated 17.10.2017 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.
13. Relying on the said unrebutted evidence produced on behalf of the petitioner, we find and hold that AGAPE Mission School, Gumniwala, By-Pass Road, Shyampur, Rishikesh, Dehradun, Uttarakhand-249204 run by The Association for Garhwal's Advancement, Prosperity and Evangelization (AGAPE) 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.
14. Consequently, AGAPE Mission School, Gumniwala, By-Pass Road, Shyampur, Rishikesh, Dehradun, Uttarakhand-249204, 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 Christian minority community subject to the eligibility of the students and availability of the accommodation in the petitioner institution and updated recognition / affiliation order issued by the State Board / CBSE. 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.

15. After compliance of the above order, a minority status certificate be issued accordingly.
16. In view of the above, the present petition is disposed of in accordance with this order.

Signed, pronounced and published on **Thursday, 11th Day of May, 2023.**

**JUSTICE NARENDRA KUMAR JAIN
CHAIRMAN**

**DR. JASPAL SINGH
MEMBER**

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