

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

**Case No. 106 of 2021**

**In the matter of :-**

**Immaculate College of Education for Women, Pakkamudayanpet,  
Puducherry-605008**

..... **Petitioner**

**V/s**

**Lieutenant Governor, Raj Nivas, Puducherry-605001**

..... **Respondent**

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

**ORDER**

**DATED 25.05.2023**

**Justice Narendra Kumar Jain, Chairman, NCMEI**

1. This petition has been received on 04.03.2021 by hand through Mr. Jose Abraham, Advocate of the petitioner institution for grant of Minority Status Certificate (in short 'MSC') to Immaculate College of Education for Women, Pakkamudayanpet, Puducherry-605008.
2. Learned counsel for the petitioner filed an affidavit of Dr. Sr. Philomin Mary, Secretary of The Immaculate Heart of Mary Society, Society No. 2, Pakkamudayanpet, Puducherry-605008 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. : PY/2017/0154297 of the petitioner's Society as given by the Niti Aayog Portal NGO Darpan, copy of application dated 05.08.2019 sent to the State Competent Authority i.e. Lieutenant Governor, Raj Nivas, Puducherry alongwith its postal receipt and tracking report, notarized copy of Certificate of Registration of The Immaculate Heart of Mary Society, Society No. 2, notarized copy of Memorandum of Association alongwith list of founding members of the Society, notarized copy of Amended Memorandum of Association dated

18.07.2016 alongwith list of present members of the Society, notarized copy of affiliation order dated 21.04.2023 issued by the National Council for Teacher Education (NCTE) to the unaided petitioner institution from the academic session 2015-16 for B.Ed. Course of two years, notarized copy of affiliation order issued by the Registrar (i/c), Pondicherry University for the academic year 2022-23 for B.Ed. (two years) course and resolution of the General Body of the Society in favour of Dr. Sr. Philomin Mary, Secretary of The Immaculate Heart of Mary Society, Society No. 2 for obtaining MSC from this Commission.

4. As per the information supplied by the unaided petitioner institution with regard to students strength as on 01.07.2020, it is mentioned that out of the total 199 students, 49 students are from the Christian minority community, 8 students are from the Muslim minority community and 142 students are Hindus. It is relevant to mention here that out of total 13 teachers, 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. Population of Christian minority community in the State of Puducherry as per the census of 2011 is 6.29%.

5. It is stated in the petition that on dated 05.08.2019, the petitioner institution has applied to the State Competent Authority for grant of NOC which was received by the State Competent Authority on 06.08.2019 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 20.05.2022, respondent has sent letters dated 12.08.2022, 20.09.2022 and 17.10.2022 which were received in the Commission's Office on dated 12.08.2022, 28.09.2022 and 20.10.2022 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 16.08.2022, after service of letters, reminder / emails to the physical inspection committee dated 15.09.2022 and 15.11.2022, Physical Inspection Committee, Puducherry has sent physical inspection report dated 18.11.2022 which was received in the Commission's Office on dated 28.11.2022 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 Dr. Sr. Philomin Mary, Secretary of The Immaculate Heart of Mary Society, Society No. 2.

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 Immaculate Heart of Mary Society, Society No. 2 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 Dr. Sr. Philomin Mary, Secretary of The Immaculate Heart of Mary Society, Society No. 2.
9. We have perused the Amended Memorandum of Association of the petitioner institution which was registered before the Registrar of Companies, Puducherry on dated 18.07.2016 which is before the filing of NOC applications U/s 10 of the NCMEI Act, 2004 dated 05.08.2019 and petition for grant of MSC on dated 04.03.2021. 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 18.07.2016 and all the documents produced by the petitioner institution clearly reflects that the beneficiaries of the petitioner institution are primarily the members of the 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 Immaculate College of Education for Women, Pakkamudayanpet, Puducherry-605008 run by The Immaculate Heart of Mary Society, Society No. 2 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, Immaculate College of Education for Women, Pakkamudayanpet, Puducherry-605008, which is for B.Ed. (two years) course, 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. 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, 25<sup>th</sup> Day of May, 2023.**

**JUSTICE NARENDRA KUMAR JAIN  
CHAIRMAN**

**DR. JASPAL SINGH  
MEMBER**

**DR. SHAHID AKHTER  
MEMBER**

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