

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

Case No. 54 of 2020

In the matter of :-

**Zeenat Public School, 33/34, Jakariya Colony, Behind Noori
Madrasa, Khajrana, Indore, Madhya Pradesh-452016**

.....Petitioner

V/s

**Secretary, Backward Classes and Minority Welfare
Department, Govt. of MP, Room No. 339, Mantralaya, Bhopal,
MP**

..... Respondent

Present: Mr. Junais P, 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 27.11.2019 by hand through Mr. Junais P, Advocate of the petitioner institution for grant of Minority Status Certificate (in short 'MSC') to Zeenat Public School, 33/34, Jakariya Colony, Behind Noori Madrasa, Khajrana, Indore, Madhya Pradesh-452016.
2. Learned counsel for the petitioner filed an affidavit of Mohd. Javed, Secretary of Ahmed Noor Memorial Educational & Cultural Society and the authorized representative of the applicant institution i.e. Zeenat Public School, 33/34, Jakariya Colony, Behind Noori Madrasa, Khajrana, Indore, Madhya Pradesh-452016 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. : MP/2017/0163466 of the petitioner's Society as given by the Niti Aayog Portal NGO Darpan, copy of application dated 08.12.2018 sent to the State Competent Authority i.e. Secretary, Backward Classes and Minority Welfare Department

alongwith postal receipt and its tracking report, notarized copy of Certificate of Registration of Ahmed Noor Memorial Educational & Cultural Society, notarized copy of Memorandum of Association alongwith list of founding members of the Society, notarized copy of Amended Memorandum of Association dated 15.03.2017/30.03.2017 alongwith list of present members of the Society, notarized downloaded copy of recognition order dated 16.05.2022 issued by the District Education Officer, Indore to the unaided petitioner institution for Pre Primary, Nursery to 8th Std. from 01.04.2022 to 31.03.2025 and resolution of the General Body of the Society in favour of Mohd. Javed, Secretary of Ahmed Noor Memorial Educational & Cultural Society for obtaining MSC from this Commission.

4. As per the information supplied by the unaided petitioner institution with regard to students strength in Academic Year 2019, it is mentioned that out of the total 818 students, 761 students are from the Muslim minority community, 9 students are from Christian minority community and 48 students are Hindus. It is relevant to mention here that in Academic Year 2019, it is mentioned that out of the total 43 teachers, 39 teachers are from the 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. Population of Muslim minority community in the State of Madhya Pradesh as per the census of 2011 is 6.57%.

5. It is stated in the petition that on dated 08.12.2018, the petitioner institution has applied to the State Competent Authority for grant of NOC which was received by the State Competent Authority on 12.12.2018 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 20.01.2020 and 09.03.2021, respondent has sent letter dated 17.08.2021, which was received in the Commission's office on dated 19.08.2021 which is taken on 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 05.04.2022, after service of letter / email to the physical inspection committee dated 06.05.2022, 03.08.2022, 06.10.2022 and 30.01.2023, Physical Inspection Committee, Indore has sent physical inspection report dated 19.01.2023 which was received in the Commission's Office on dated 30.01.2023 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 petitioner, the documents filed by the petitioner and affidavit of Mohd. Javed, Secretary of Ahmed Noor Memorial Educational & Cultural 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 Ahmed Noor Memorial Educational & Cultural 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 Mohd. Javed, Secretary of Ahmed Noor Memorial Educational & Cultural Society.
9. We have perused the Amended Memorandum of Association of the petitioner institution which was registered before the Assistant Registrar on dated 15.03.2017/30.03.2017 which is before the filing of NOC applications U/s 10 of the NCMEI Act, 2004 dated 08.12.2018 and petition for grant of MSC on dated 27.11.2019. 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 15.03.2017/30.03.2017 and all the documents produced by the petitioner institution clearly reflects that the beneficiaries of the petitioner institution are primarily the members of the 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 un rebutted evidence produced on behalf of the petitioner, we find and hold that Zeenat Public School, 33/34, Jakariya Colony, Behind Noori Madrasa, Khajrana, Indore,

Madhya Pradesh-452016 run by Ahmed Noor Memorial Educational & Cultural 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 sub-serving the interests of the Muslim minority community.

12. Consequently, Zeenat Public School, 33/34, Jakariya Colony, Behind Noori Madrasa, Khajrana, Indore, Madhya Pradesh-452016, which is from Pre Primary, Nursery to 8th Std., 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 **Thursday, 11th Day of May, 2023.**

**JUSTICE NARENDRA KUMAR JAIN
CHAIRMAN**

**DR. JASPAL SINGH
MEMBER**

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