

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

Case No. 153 of 2021

In the matter of :-

**Nirmala Matha Convent School (ICSE), Sakthi Easwar Nagar,
Vellalore Village, Coimbatore, Tamil Nadu-641111**

..... Petitioner

V/s

**Principal Secretary, School Education Department, Govt. of
Tamil Nadu, Fort St. George, Secretariat, Chennai, Tamil
Nadu**

..... Respondent

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

ORDER

DATED 05.04.2023

Justice Narendra Kumar Jain, Chairman, NCMEI

1. This petition has been received on 08.07.2021 by hand through Mr. Jose Abraham, Advocate of the petitioner institution for grant of Minority Status Certificate (in short 'MSC') to Nirmala Matha Convent School (ICSE), Sakthi Easwar Nagar, Vellalore Village, Coimbatore, Tamil Nadu-641111.
2. Learned counsel for the petitioner filed an affidavit of Rev. Sr. Dometila S.A.B.S., President of Nirmala Adoration Educational and Charitable Trust 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. : TN/2019/0244986 of the petitioner's Trust as given by the Niti Aayog Portal NGO Darpan, copy of application dated 26.03.2021/27.03.2021 sent to the State Competent Authority i.e. Principal Secretary, School Education Department, Govt. of Tamil Nadu alongwith postal receipt and its tracking report, notarized copy of Trust Deed dated 08.08.2005 of Nirmala Adoration Educational and Charitable Trust, notarized copy of

Supplementary Trust Deed dated 03.03.2016 (4 pages), notarized copy of Affiliation Order dated 30.10.2019 issued by the Chairman, Council for the Indian School Certificate Examinations to the unaided petitioner institution till 31.03.2025 for Secondary Education Examination (10th) and resolution of the General Body of the Trust in favour of Rev. Sr. Dometila S.A.B.S., President of Nirmala Adoration Educational and Charitable Trust for obtaining MSC from this Commission. During the course of arguments, Learned Counsel for the petitioner produced the original Amended / Supplementary Trust Deed for perusal and also filed copy of 7 pages of said document in which it is specifically mentioned that the said document was registered on 03.03.2016 by the Sub Registrar, Erode, Tamil Nadu. It transpires from the petition that in Col. No. 6 of the petition, the petitioner institution is upto middle level. As per the recognition / affiliation issued by the Council for the Indian School Certificate Examinations, the petitioner institution is upto Secondary level. During the course of arguments, Learned Counsel for the petitioner submitted that they have wrongly ticked/marked as Middle level but petitioner institution is actually upto Secondary level.

4. As per the information supplied by the unaided petitioner institution with regard to students strength in the academic year 2017-18, it is mentioned that out of the total 167 students, 68 students were from the Christian minority community, 19 students were from Muslim minority community and 80 students are Hindus, in the academic year 2018-19, it is mentioned that out of the total 185 students, 80 students were from the Christian minority community, 19 students were from Muslim minority community and 86 students are Hindus and in the academic year 2019-20, it is mentioned that out of the total 198 students, 90 students are from the Christian minority community, 19 students are from Muslim minority community and 89 students are Hindus . It is relevant to mention here that in the academic year 2017-18, out of total 19 teachers, 9 teachers were from Christian Minority

community, in the academic year 2018-19, out of total 24 teachers, 10 teachers were from Christian Minority community and in the academic year 2019-20, out of total 29 teachers, 9 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 27.03.2021, the petitioner institution has applied to the State Competent Authority for grant of NOC which was received by the State Competent Authority on 30.03.2021 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 31.05.2022, 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 24.08.2022, after service of letters, reminder / emails to the physical inspection committee dated 23.09.2022 and 07.12.2022, Physical Inspection Committee, Coimbatore has sent physical inspection report dated 30.12.2022 which was received in the Commission's Office on dated 04.01.2023 wherein they have recommended 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 Rev. Sr. Dometila S.A.B.S., President of Nirmala Adoration Educational and Charitable 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 Christian minority community and is being administered by Nirmala Adoration Educational and Charitable Trust 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. Sr. Dometila S.A.B.S., President of Nirmala Adoration Educational and Charitable Trust.
9. We have perused the Supplementary Trust Deed of the petitioner institution which was registered before the Sub Registrar on dated 03.03.2016 which is before the grant of NOC applications U/s 10 of the NCMEI Act, 2004 dated 26.03.2021 and petition for grant of MSC on dated 08.07.2021. 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 Supplementary Trust Deed dated 03.03.2016 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 Nirmala Matha Convent School (ICSE), Sakthi Easwar Nagar, Vellalore Village, Coimbatore, Tamil Nadu-641111 run by Nirmala Adoration Educational and Charitable 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 Christian minority community.
12. Consequently, Nirmala Matha Convent School (ICSE), Sakthi Easwar Nagar, Vellalore Village, Coimbatore, Tamil Nadu-641111, which is for Secondary Education Examination (10th), 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 **Wednesday, 5th Day of April, 2023.**

**JUSTICE NARENDRA KUMAR JAIN
CHAIRMAN**

**DR. JASPAL SINGH
MEMBER**

**DR. SHAHID AKHTER
MEMBER**

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