

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

Case No. 261 of 2020

In the matter of :-

**The Arham Body of Divinity and Excellence, Kesliwala
Mansion, Alka Talkies Road, Kareli, District Narsinghpur,
Madhya Pradesh-487221**

.....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 26.07.2023

Justice Narendra Kumar Jain, Chairman, NCMEI

1. This petition has been received on 28.02.2020 by hand through Mr. Junais P, Advocate of the petitioner institution for grant of Minority Status Certificate (in short 'MSC') to The Arham Body of Divinity and Excellence, Kesliwala Mansion, Alka Talkies Road, Kareli, District Narsinghpur, Madhya Pradesh-487221.
2. Learned counsel for the petitioner filed an affidavit of Shri Mukesh Kumar Jain, President of Syat Education Society 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. : MP/2018/0211443 of the petitioner's Society as given by the Niti Aayog Portal NGO Darpan, copy of application dated 05.06.2019 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 Syat Education Society, notarized copy of Memorandum of Association alongwith list of founding members of the Society, notarized copy of Amended Memorandum of Association dated 20.12.2018 alongwith list of present members of the Society, notarized downloaded copy of recognition order dated 03.05.2022 issued by the District Education Officer, Narsinghpur to the unaided petitioner institution for 1st to 8th Std. from 01.04.2022 to 31.03.2025 and resolution of the General Body of the Society in favour of Shri Mukesh Kumar Jain, President of Syat Education 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 2018-20, it is mentioned that out of the total 131 students, 18 students are from the Jain minority community, 6 students are from Muslim minority community, 7 students are from Sikh minority community and 100 students are Hindus. It is relevant to mention here that in Academic Year 2018-20, it is mentioned that out of the total 16 teachers, 2 teachers are from the Jain minority community.
5. It is stated in the petition that on dated 05.06.2019, the petitioner institution has applied to the State Competent Authority for grant of NOC which was received by the State Competent Authority on 10.06.2019 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 petition 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 26.08.2020, 05.11.2020 and 09.03.2021, respondent has sent letters dated 09.11.2020 and 08.01.2021 which were received in the Commission's office on dated 18.11.2020 and 18.01.2021 respectively 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 28.10.2020. After service of letters / emails to the physical inspection committee dated 05.11.2020, 16.09.2021, 29.04.2022, 28.10.2022, 13.12.2022, 21.02.2023 and 11.04.2023, Physical Inspection Committee, Narsinghpur has sent physical inspection reports dated 23.02.2021, 28.11.2022, 28.03.2023 and 14.07.2023 which were received in the Commission's Office on dated 06.12.2021, 01.12.2022, 31.03.2023 and 19.07.2023. Earlier we have received Physical Inspection Committee Report wherein they have given adverse facts about the light, air and also a doubt about the sudden accident like short-circuit and fire etc. Now representative of Collector, District Education Officer and Assistant Director, Backward Classes and Minority Welfare Department, Narsinghpur has sent report that this institution is air conditioned and having sufficient infrastructure.
7. Heard the Learned Counsel for the petitioner, perused the pleading of the petitioner, the documents filed by the

petitioner and affidavit of Shri Mukesh Kumar Jain, President of Syat Education 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 Jain minority community and is being administered by Syat Education Society 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 Mukesh Kumar Jain, President of Syat Education Society.
9. 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 Madhya Pradesh as per the census of 2011 is 0.78%.

10. We have perused the Amended Memorandum of Association of the petitioner institution which was registered before the Assistant Registrar on dated 20.12.2018 which is before the filing of NOC applications U/s 10 of the NCMEI Act, 2004 dated 05.06.2019 and petition for grant of MSC on dated 28.02.2010. 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.
11. The Amended Memorandum of Association dated 20.12.2018 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.
12. Relying on the said unrebutted evidence produced on behalf of the petitioner, we find and hold that The Arham Body of Divinity and Excellence, Kesliwala Mansion, Alka Talkies Road, Kareli, District Narsinghpur, Madhya Pradesh-487221 run by Syat Education 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 Jain minority community.
13. Consequently, The Arham Body of Divinity and Excellence, Kesliwala Mansion, Alka Talkies Road, Kareli, District Narsinghpur, Madhya Pradesh-487221, which is from 1st 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 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.

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

Signed, pronounced and published on **Wednesday, 26th Day of July, 2023.**

**JUSTICE NARENDRA KUMAR JAIN
CHAIRMAN**

**DR. SHAHID AKHTER
MEMBER**

VB