

**GOVERNMENT OF INDIA  
NATIONAL COMMISSION FOR MINORITY  
EDUCATIONAL INSTITUTIONS**

**CASE NO. 121 OF 2022**

**In the matter of:**

**Madarsa Faiz-E-Rasheed, Neem Tala, Gangoh, (Saharanpur), Uttar Pradesh – 247 341.**

**... Petitioner**

**Versus**

- 1. Additional Chief Secretary, Department of School Education, Government of U.P., Bahu Khandi, Secretariat, Lucknow, U.P.**
- 2. Additional Chief Secretary, Department of Secondary Education, Government of U.P., Bahu Khandi, Secretariat, Lucknow, U.P.**
- 3. Additional Chief Secretary, Minority Welfare and Waqf Department, Bahu Khandi, Secretariat, Lucknow, U.P.-226 001.**

**... Respondents**

**Present:** Mr. Prasanth Kulambil, Advocate for the petitioner.  
None for the respondents.

**ORDER**

**Date: 30.08.2023**

**Dr. Shahid Akhter, Member**

1. This petition has been received on 26.07.2022 by post through Mr. Prasanth Kulambil, Advocate of the petitioner institution for grant of Minority Status Certificate (in short 'MSC') to Madarsa Faiz-E-Rasheed, Neem Tala, Gangoh, (Saharanpur), Uttar Pradesh.

2. Learned counsel for the petitioner has filed an affidavit of Mr. Farrukh Azeem, Secretary, Rafeeq Educational and Welfare Society, and the authorized representative of the applicant institution i.e. Madarsa Faiz-E-Rasheed, Neem Tala, Gangoh, (Saharanpur), Uttar Pradesh, 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 a notarized copy of Unique ID No.: UP/2020/0262719 of the petitioner's society as given by the Niti Aayog Portal NGO Darpan, copy of the application dated 20.10.2021 submitted before the State Competent authority for NOC, Notarized copies of Certificate of Registration, Memorandum of Association, Rules and Regulations, amended Memorandum of Association and amended Rules

and Regulations of the Rafeeq Educational and Welfare Society. He has also filed a notarized copy of permanent recognition of the District Minority Welfare Officer, Saharanpur and affidavit in support of the averments made in the petition. He has also filed notarized copy of Governing Body Resolution of the Rafeeq Educational and Welfare Society.

4. As per the information supplied by the inspection committee report dated 06.03.2023 with regard to the students strength, it is mentioned that in the year 2020-21 in unaided petitioner institution, out of total 85 students, all students were from the Muslim minority community. It is mentioned that in the year 2021-22, out of total 80 students, all students were from the Muslim minority community. It is also mentioned in the said report that in the year 2022-23, out of total 105 students, all students are from the Muslim minority community.

5. It is stated in the petition that on dated 20.10.2021, the petitioner institution has applied to the State Competent Authority for grant of NOC which was received by the State Competent Authority on 25.10.2021 and the same 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 08.08.2022 and 31.10.2022, 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 30.11.2022, after service of letters, reminder/ emails to the physical inspection committee dated 27.12.2022 and 07.03.2023, District Magistrate, sent the physical inspection report through post vide letter dated 06.03.2023, which was received in the Commission's Office on dated 16.03.2023 wherein they have recommended to grant MSC to the petitioner institution.

7. Heard learned counsel for the petitioner, perused the pleadings of the parties, the documents filed by the petitioner and affidavit of Mr. Farrukh Azeem, Secretary, Rafeeq Educational and Welfare 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 the Rafeeq Educational and Welfare 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 Mr. Farrukh Azeem, Secretary, Rafeeq Educational and Welfare 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 the 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 that there must be reasonable strength of students of particular minority community in a minority educational institution. 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 Uttar Pradesh as per the census of 2011 is 19.26%.

10. We have perused the amended Memorandum of Association of the said Society, which was registered before the Assistant Registrar of Societies on dated 24.09.2020 which is before the filing of NOC applications U/s 10 of the NCMEI Act, 2004 dated 20.10.2021 and petition for grant of MSC on dated 26.07.2022. 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 of the said society and all the documents produced by the petitioner institution clearly reflect that the beneficiaries of the petitioner institution are primarily the members of the Muslim minority community. In addition, the said fact 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 before this Commission.

12. Relying on the said un rebutted evidence produced on behalf of the petitioner, we find and hold that the Madarsa Faiz-E-Rasheed, Neem Tala, Gangoh, Saharanpur, Uttar Pradesh, run by the Rafeeq Educational and Welfare 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.

13. Consequently, Madarsa Faiz-E-Rasheed, Neem Tala, Gangoh, Saharanpur, Uttar Pradesh, which is a Madarsa (Primary 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 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.

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, **30<sup>th</sup> day of August, 2023.**

**DR. SHAHID AKHTER  
MEMBER**