

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

Case No. 188 of 2022

In the matter of :-

**St. Marys Convent School, Delhi By-Pass, Serua Chauraha,
Agwanpur, Moradabad, Uttar Pradesh-244502**

..... Petitioner

V/s

**1. Principal Secretary, Department of Secondary Education,
Govt. of Uttar Pradesh, Babu Bhawan, 7t Floor, Lucknow,
Uttar Pradesh-226001**

**2. Additional Chief Secretary, Department of Secondary
Education, Govt. of Uttar Pradesh, Babu Bhawan, 7t Floor,
Lucknow, Uttar Pradesh-226001**

..... Respondents

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

ORDER

DATED 08.02.2024

Dr. Shahid Akhter, Member, NCMEI

1. This petition has been received on 03.10.2022 by hand through Mr. Jose Abraham, Advocate of the petitioner institution for grant of Minority Status Certificate (in short 'MSC') to St. Marys Convent School, Delhi By-Pass, Serua Chauraha, Agwanpur, Moradabad, Uttar Pradesh-244502.
2. Learned counsel for the petitioner filed an affidavit of Rev. Sr. Alice Peter, President of Seva Charitable 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 Christian minority community and also stating 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.
3. Learned counsel for the petitioner has filed notarized copy of Unique ID No. : UP/2018/0189688 of the petitioner's Society as

given by the Niti Aayog Portal NGO Darpan, photocopy of application dated 24.06.2022 sent to the State Competent Authority i.e. Principal Secretary, Secondary Education Department alongwith postal receipt and its tracking report, notarized copy of Certificate of Registration of Seva Charitable Society, downloaded copy of renewed Certificate of Registration dated 31.10.2022 of the said Society, notarized copy of Memorandum of Association dated 29.03.2012 alongwith list of founding and present members of the Society, notarized copy of Affiliation Order dated 10.06.2021 issued by the Deputy Secretary/Joint Secretary (Aff), CBSE to the unaided petitioner institution from 01.04.2022 to 31.03.2027 for Secondary / Senior Secondary Level and resolution of the General Body of the Society in favour of Rev. Sr. Alice Peter, President of Seva Charitable Society for obtaining MSC from this Commission.

4. As per the information supplied by the petitioner unaided institution with regard to students strength as on Academic Year 2019-20, it is mentioned that out of total 1062 students, 16 students were from the Christian minority community, 212 students were from the Muslim minority community and 834 students were Hindus, in the year 2020-21, it is mentioned that out of total 1151 students, 19 students were from the Christian minority community, 239 students were from the Muslim minority community and 893 students were Hindus and in the year 2021-22, it is mentioned that out of total 1278 students, 21 students are from the Christian minority community, 245 students are from the Muslim minority community and 1012 students are Hindus. It is relevant to mention here that in the year 2019-20, out of the total 47 teachers, 24 teachers were from Christian Minority community, in the year 2020-21, out of the total 44 teachers, 19 teachers were from Christian Minority community and in the year 2021-22, out of the total 46 teachers, 19 teachers are from Christian Minority community.

5. It is stated in the petition that on dated 24.06.2022, the petitioner institution has applied to the State Competent Authority for grant of NOC which was received by the State Competent Authority on 27.06.2022 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. Despite service of registered notice / email dated 14.11.2022 and 04.01.2023, 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 06.04.2023. After service of letters/emails to the physical inspection committee dated 27.04.2023 and 04.08.2023, Physical Inspection Committee, Moradabad has sent physical inspection report dated 29.09.2023 which was received in the Commission's Office on dated 04.10.2023 wherein they have recommended to grant MSC to the petitioner institution.
7. Heard the Learned Counsel for the petitioner, perused the pleading of the petition, the documents filed by the petitioner and affidavit of Rev. Sr. Alice Peter, President of Seva Charitable Society.
8. 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 Christian minority community in the State of Uttar Pradesh as per the census of 2011 is 0.18%.

9. 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 Seva Charitable Society 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. Alice Peter, President of Seva Charitable Society.
10. I have perused the Memorandum of Association of the petitioner institution which was registered before the Assistant Registrar of Societies, Moradabad on dated 29.03.2012 which is before the filing of NOC applications U/s 10 of the NCMEI Act, 2004 dated 24.06.2022 and petition for grant of MSC on dated 03.10.2022. 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 Memorandum of Association dated 29.03.2012 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.

12. Relying on the said un rebutted evidence produced on behalf of the petitioner, we find and hold that St. Marys Convent School, Delhi By-Pass, Serua Chauraha, Agwanpur, Moradabad, Uttar Pradesh-244502 run by Seva Charitable 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 Christian minority community.
13. Consequently, St. Marys Convent School, Delhi By-Pass, Serua Chauraha, Agwanpur, Moradabad, Uttar Pradesh-244502 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.
14. 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 **Thursday, 8th Day of February, 2024.**

**DR. SHAHID AKHTER
MEMBER**

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