

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

Case No. 102 of 2021

In the matter of :-

**Madarsa Gulshane-Siddike-E-Akbar, Village Badepura Block &
Teh. Nawabganj, Bareilly District, Uttar Pradesh-262407**

..... Petitioner

V/s

**1. Additional Chief Secretary, Department of School Education,
Government of Uttar Pradesh, Bahu Khandi, Secretariat,
Lucknow, Uttar Pradesh-226001**

**2. Additional Chief Secretary, Minority Welfare and Waqf
Department, Government of Uttar Pradesh**

..... Respondents

**Present : Mr. Junais P, Advocate for the petitioner
None for the respondents**

ORDER

DATED 31.01.2024

Dr. Shahid Akhter, Member, NCMEI

1. This petition has been received on 02.03.2021 by hand through Mr. Junais P, Advocate of the petitioner institution for grant of Minority Status Certificate (in short 'MSC') to Madarsa Gulshane-Siddike-E-Akbar, Village Badepura Block & Teh. Nawabganj, Bareilly District, Uttar Pradesh-262407.
2. Learned counsel for the petitioner filed an affidavit of Ms. Sabir Jahan, Secretary, Gulamane Siddike E Akbar Education Society and the authorized representative of the applicant institution i.e. Madarsa Gulshane-Siddike-E-Akbar, Village Badepura Block & Teh. Nawabganj, Bareilly District, Uttar Pradesh-262407 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. : UP/2020/0268448 of the petitioner's Society as given by the Niti Aayog Portal NGO Darpan, photocopy of application dated 02.11.2018 sent to the State Competent Authority i.e. Additional

Chief Secretary, Department of School Education, Govt. of Uttar Pradesh alongwith postal receipt and its tracking report, notarized copy of Certificate of Registration of Gulamane Siddike E Akbar Education Society, notarized copy of renewed Certificate of Registration dated 29.06.2020 of the said Society, notarized copy of Memorandum of Association dated 25.08.2014 alongwith list of founding and present members of the Society, notarized copy of permanent Recognition Order dated 01.08.2023 issued by the District Minority Welfare Officer, Bareilly to the unaided petitioner institution for Tahtania Courses and resolution of the General Body of the Society in favour of Ms. Sabir Jahan, Secretary, Gulamane Siddike E Akbar 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 2018-21, it is mentioned that out of the total 65 students, all students are from the Muslim minority community. It is relevant to mention here that in academic years 2018-21, out of the total 4 teachers, all teachers are from the Muslim Minority community.
5. It is stated in the petition that on dated 02.11.2018, the petitioner institution has applied to the State Competent Authority for grant of NOC which was received by the State Competent Authority on 06.11.2018 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 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 dated 19.03.2021, 20.12.2022, 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 07.12.2021. After service of letters/emails to the physical inspection committee dated 16.12.2021 and 20.05.2022, Physical Inspection Committee, Bareilly has sent physical inspection report dated 21.07.2022 which were received in the Commission's Office on dated 27.07.2022 and 22.02.2023 respectively 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 petition, the documents filed by the petitioner and affidavit of Ms. Sabir Jahan, Secretary, Gulamane Siddike E Akbar Education 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 Muslim minority community in the State of Uttar Pradesh as per the census of 2011 is 19.26%.
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 Muslim minority community and is being administered by Gulamane Siddike E Akbar Education 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

Ms. Sabir Jahan, Secretary, Gulamane Siddike E Akbar Education Society.

10. I have perused the Memorandum of Association of the petitioner institution which was registered before the Assistant Registrar, Bareilly on dated 25.08.2014 which is before the filing of NOC application U/s 10 of the NCMEI Act, 2004 dated 02.11.2018 and petition for grant of MSC on dated 02.03.2021. 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.
11. The Memorandum of Association dated 25.08.2014 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.
12. Relying on the said unrebutted evidence produced on behalf of the petitioner, we find and hold that Madarsa Gulshane-Siddike-E-Akbar, Village Badepura Block & Teh. Nawabganj, Bareilly District, Uttar Pradesh-262407 run by Gulamane Siddike E Akbar 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 Muslim minority community.
13. Consequently, Madarsa Gulshane-Siddike-E-Akbar, Village Badepura Block & Teh. Nawabganj, Bareilly District, Uttar Pradesh-262407 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, 31st Day of January, 2024.**

**DR. SHAHID AKHTER
MEMBER**

VB