

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

Case No. 414 of 2020

In the matter of :-

**St. Joseph's English Medium School, Dolo Tank Road,
Paralakhemundi, Gajapathi, Odisha-760001**

..... Petitioner

V/s

**Director, Elementary Education, 6th Floor, HOD Building, Unit-
V, Bhubaneshwar, Khordha, Odisha-751001**

..... Respondent

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

ORDER

DATED 01.02.2024

Dr. Shahid Akhter, Member, NCMEI

1. This petition has been received on 23.10.2020 by hand through Mr. Jose Abraham, Advocate of the petitioner institution for grant of Minority Status Certificate (in short 'MSC') to St. Joseph's English Medium School, Dolo Tank Road, Paralakhemundi, Gajapathi, Odisha-760001.
2. Learned counsel for the petitioner filed an affidavit of Fr. Prodeep Chandra Nayak, Secretary of Berhampur Diocesan Catholic School Managing Committee 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. : OR/2017/0155215 of the petitioner's Society as given by the Niti Aayog Portal NGO Darpan, photocopy of NOC application dated 24.12.2019 sent to the State Competent Authority i.e. Director, Elementary Education alongwith postal receipt and its tracking report, notarized copy of Certificate of Registration of Berhampur Diocesan Catholic School Managing Committee, notarized copy of Memorandum of Association alongwith list of founding

members of the Society, notarized copy of Amended Memorandum of Association dated 27.01.2017 alongwith list of present members of the Society, notarized copy of Provisional Affiliation Certificate dated 05.05.2023 issued by the Chief Executive Secretary / Chairman, Council for the Indian School Certificate Examinations to the unaided petitioner institution till 31.03.2027 for the Secondary Education (Year 10) Examinations and resolution of the General Body of the Society in favour of Fr. Prodeep Chandra Nayak, Secretary of Berhampur Diocesan Catholic School Managing Committee for obtaining MSC from this Commission.

4. As per the information supplied by the petitioner unaided institution with regard to students strength as on 01.01.2020, it is mentioned that out of total 1194 students, 429 students are from the Christian minority community, 4 students are from the Muslim minority community and 761 students are Hindus. It is relevant to mention here that as on 01.01.2020, that out of 50 teachers, 18 teachers are from the Christian Minority community,
5. It is stated in the petition that on dated 24.12.2019, the petitioner institution has applied to the State Competent Authority for grant of NOC which was received by the State Competent Authority on 27.12.2019 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. Heard the Learned Counsel for the petitioner, perused the pleading of the petition, the documents filed by the petitioner and affidavit of Fr. Prodeep Chandra Nayak, Secretary of Berhampur Diocesan Catholic School Managing Committee.

7. 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 Berhampur Diocesan Catholic School Managing Committee 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 Fr. Prodeep Chandra Nayak, Secretary of Berhampur Diocesan Catholic School Managing Committee.
8. Despite service of registered notice dated 12.11.2020, 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 20.04.2022. After service of letters/emails/reminders to the physical inspection committee dated 27.04.2022, 03.08.2022 and 20.09.2022, Physical Inspection Committee, Gajapati has sent physical inspection report dated 20.09.2022 which was received in the Commission's Office on dated 27.09.2022 wherein they have recommended to grant MSC to the petitioner institution.
9. Heard the Learned Counsel for the petitioner, perused the pleading of the petition, the documents filed by the petitioner and affidavit of Fr. Prodeep Chandra Nayak, Secretary of Berhampur Diocesan Catholic School Managing Committee.
10. 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 Odisha as per the census of 2011 is 2.77%.

11. I have perused the Amended Memorandum of Association of the petitioner institution which was registered before the Officer-in-Charge of Record Room, Chatrapur on dated 27.01.2017 which is before the filing of NOC applications U/s 10 of the NCMEI Act, 2004 dated 24.12.2019 and petition for grant of MSC on dated 22.10.2020. 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.
12. The Amended Memorandum of Association dated 27.01.2017 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.
13. Relying on the said unrebutted evidence produced on behalf of the petitioner, we find and hold that St. Joseph's English Medium School, Dolo Tank Road, Paralakhemundi, Gajapathi, Odisha-760001 run by Berhampur Diocesan Catholic School Managing Committee 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.
14. Consequently, St. Joseph's English Medium School, Dolo Tank Road, Paralakhemundi, Gajapathi, Odisha-760001 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.

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

Signed, pronounced and published on **Thursday, 1st Day of February, 2024.**

**DR. SHAHID AKHTER
MEMBER**

VB