

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

Case No. 141 of 2021

In the matter of :-

**Modern School, Plot No.HS-08, Block-A, Sector-Delta 1,
Greater Noida, Uttar Pradesh-201308**

..... **Petitioner**

V/s

- 1. Additional Chief Secretary, Deptt. of School Education,
Govt. of Uttar Pradesh, Bahu Khandi, Secretariat,
Lucknow, Uttar Pradesh-226001**
- 2. Additional Chief Secretary, Department of Secondary
Education, Govt. of UP, Bahukhandi Secretariat,
Lucknow, UP**

..... **Respondents**

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

ORDER

DATED 21.02.2024

Dr. Shahid Akhter, Member, NCMEI

1. This petition has been received on 07.04.2021 by hand through Mr. Junais P, Advocate of the petitioner institution for grant of Minority Status Certificate (in short 'MSC') to Modern School, Plot No.HS-08, Block-A, Sector-Delta 1, Greater Noida, Uttar Pradesh-20130.
2. Learned counsel for the petitioner filed an affidavit of Mr. Sushil Kumar Jain, President of the Digamber Jain Society for Child Welfare 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. : DL/2019/0228215 of the petitioner's Society

as given by the Niti Aayog Portal NGO Darpan, photocopy of application dated 19.10.2020 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 Digamber Jain Society for Child Welfare, notarized copy of Memorandum of Association alongwith list of founding members of the Society, notarized copy of Amended Memorandum of Association dated 05.07.2005 alongwith list of present members of the Society, notarized copy of the Permanent Recognition Order dated 23.02.2022 issued by the District Basic Education Officer, Gautam Budh Nagar to the unaided petitioner institution for Primary / Higher Primary Std. (Nursery to 8th Std.) and resolution of the General Body of the Society in favour of Mr. Sushil Kumar Jain, President of the Digamber Jain Society for Child Welfare for obtaining MSC from this Commission. Learned Counsel for the petitioner has also filed an affidavit of Mr. Sushil Kumar Jain, President of the Digamber Jain Society for Child Welfare regarding variance of students in MSC application and Physical Inspection report.

4. As per the information supplied by the petitioner unaided institution with regard to students strength in Academic Year 2018-19, it is mentioned that out of total 160 students, 20 students were from the Jain minority community, 2 student were from the Muslim minority community, 2 students were from the Sikh minority community and 133 students were Hindus, in the year 2019-20, it is mentioned that out of total 190 students, 25 students were from the Jain minority community, 1 student was from the Muslim minority community, 8 students were from the Sikh minority community and 156 students were Hindus and the year 2020-

21, it is mentioned that out of total 165 students, 22 students are from the Jain minority community, 1 student is from the Muslim minority community, 8 students are from the Sikh minority community and 134 students are Hindus.

5. It is stated in the petition that on dated 19.10.2020, the petitioner institution has applied to the State Competent Authority for grant of NOC which was received by the State Competent Authority on 23.10.2020 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 22.06.2022, 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 18.08.2022. After service of letters/emails to the physical inspection committee dated 12.09.2022, 15.09.2022, 04.11.2022, 26.12.2022, 22.02.2023, 28.04.2023, 18.07.2023 Physical Inspection Committee, Gautam Budh Nagar has sent physical inspection report dated 24.08.2023 which was received in the Commission's Office on dated 31.08.2023 wherein they have not mentioned any negative / adverse 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 Mr. Sushil Kumar Jain, President of the Digamber Jain Society for Child Welfare.
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 Jain minority community in the State of Uttar Pradesh as per the census of 2011 is 0.11%.
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 Jain minority community and is being administered by Digamber Jain Society for Child Welfare 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 Mr. Sushil Kumar Jain, President of the Digamber Jain Society for Child Welfare.
10. I have perused the Amended Memorandum of Association of the petitioner institution which was registered before the

Registrar of Societies on dated 05.07.2005 which is before the filing of NOC applications U/s 10 of the NCMEI Act, 2004 dated 19.10.2020 and petition for grant of MSC on dated 07.04.2021. 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 Amended Memorandum of Association dated 05.07.2005 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 un rebutted evidence produced on behalf of the petitioner, we find and hold that Modern School, Plot No.HS-08, Block-A, Sector-Delta 1, Greater Noida, Uttar Pradesh-201308 run by Digamber Jain Society for Child Welfare 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 subserving the interests of the Jain minority community.
13. Consequently, Modern School, Plot No.HS-08, Block-A, Sector-Delta 1, Greater Noida, Uttar Pradesh-201308 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, 21st Day of February, 2024.**

**DR. SHAHID AKHTER
MEMBER**

VB