

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

**Case No. 70 of 2023**

**In the matter of :-**

**Infant Jesus English Medium School, Modankapu, Bantwala  
Taluk, Dakshina Kannada District, Karnataka-574219  
..... Petitioner**

**V/s**

**Additional Chief Secretary, Education Department (Higher  
Education), Govt. of Karnataka, 6<sup>th</sup> Floor, Multi-Storeyed  
Building, Bengaluru-560001**

**..... Respondent**

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

**ORDER**

**DATED 07.03.2024**

**Dr. Shahid Akhter, Member NCMEI**

1. This petition has been received on 17.02.2023 by hand through Mr. Jose Abraham, Advocate of the petitioner institution for grant of Minority Status Certificate (in short 'MSC') to Infant Jesus English Medium School, Modankapu, Bantwala Taluk, Dakshina Kannada District, Karnataka-574219.
2. Learned counsel for the petitioner filed an affidavit of Rev. Fr. Antony Michael Shera, Secretary of The Catholic Board of Education of the Diocese of Mangalore 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 copy of Unique ID No. : KA/2017/0152458 of the petitioner's Society as given by the Niti Aayog Portal NGO Darpan, photocopy of application dated

07.10.2022 sent to the State Competent Authority i.e. Additional Chief Secretary to Govt., Education Department, Govt. of Karnataka alongwith postal receipt and its tracking report, certified copy of Certificate of Registration of The Catholic Board of Education of the Diocese of Mangalore, certified copy of Memorandum of Association alongwith list of founding members of the Society, certified copy of Amended Memorandum of Association dated 22.07.2022 alongwith list of present members of the Society, notarized copy of the English translation of last page of Amended Memorandum of Association dated 22.07.2022, notarized copy of the recognition order dated 22.04.2022 issued by the Deputy Director (Administration), Public Educational Department, Dakshina Kannada, Mangalore to the unaided petitioner institution from the Academic Year 2021-22 to 2025-26 for class 1<sup>st</sup> to 10<sup>th</sup> in Kannad language alongwith its English translation and resolution of the General Body of the Society in favour of Rev. Fr. Antony Michael Shera, Secretary of The Catholic Board of Education of the Diocese of Mangalore for obtaining MSC from this Commission.

4. As per the information supplied by the unaided petitioner institution with regard to students' strength as on 2020-21, it is mentioned that out of total 607 students, 181 students were from the Christian minority community, 236 students were from the Muslim minority community and 190 students were Hindus, in Academic Year 2021-22, it is mentioned that out of total 654 students, 194 students were from the Christian minority community, 255 students were from the Muslim minority community and 205 students were Hindus and in Academic year 2022-23, it is mentioned that out of total 686 students, 212 students are from the Christian minority community, 246 students are from the Muslim minority community and 228 students are Hindus. It is relevant to mention here that in Academic Year 2020-21, out of total 16 teachers, 12 teachers were from the Christian Minority community, in Academic Year 2021-22, out of total 17

teachers, 13 teachers were from the Christian Minority community and in the academic year 2022-23, out of total 19 teachers, 16 teachers are from the Christian Minority community.

5. It is stated in the petition that on dated 07.10.2022, the petitioner institution has applied to the State Competent Authority for grant of NOC which was received by the State Competent Authority on 10.10.2022 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. After service of registered notice / email dated 03.03.2023, Commissioner, Directorate of Urdu and Other Minority Language Schools (Department of Education), Govt. of Karnataka has sent reply dated 28.03.2023 on behalf of the respondent by post which was received by the Commission on 05.04.2023. In the reply filed by the Commissioner, Directorate of Urdu and Other Minority Language Schools (Department of Education) informed that the petitioner institution has submitted application for seeking MSC before the NCMEI without approaching the Competent Authority, a review committee has been constituted to grant minority status to Primary and Secondary Educational Institutions within the State under State Government Order No. Ed. 27 Mahithi 2012 dated 18.06.2014. In the said order, prescribed authorities are appointed as Competent Authorities for grant minority status. They further informed that the petitioner institution have submitted their applications directly to the NCMEI without prior submission to the competent authority must be rejected based on the reason that the submission of application is not made in accordance with

Section 10 of the NCMEI Act, 2004. In view of the aforesaid information, request to dismiss the above application.

7. 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 17.05.2023. After service of letter / email to the physical inspection committee dated 22.05.2023, Physical Inspection Committee, Dakshina Kannad has sent physical inspection report dated 05.08.2023 which was received in the Commission's Office on dated 10.08.2023 and in the report said committee members have stated that this institution has not admitted 25% students belonging to minority group. In this regard, the Committee has come to the opinion that the said school cannot be considered as minority school.
8. Heard the Learned Counsel for the petitioner, perused the pleading of the petitioner, the documents filed by the petitioner and affidavit of Rev. Fr. Antony Michael Shera, Secretary of The Catholic Board of Education of the Diocese of Mangalore. Learned Counsel for the petitioner has submitted that the Hon'ble Apex Court, various High Courts as well as this Commission have categorically held that percentage governing admission of students from notified minority community in a minority educational institution is not an indicia for determining the minority status of such institution.
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 Christian minority community in the State of Karnataka as per the census of 2011 is 1.87%.

10. 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 The Catholic Board of Education of the Diocese of Mangalore 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. Fr. Antony Michael Shera, Secretary of The Catholic Board of Education of the Diocese of Mangalore.
11. I have perused the Amended Memorandum of Association of the petitioner institution which was registered before the Deputy Registrar of Co-operative Societies, Mangalore on dated 22.07.2022 which is before the filing of NOC applications U/s 10 of the NCMEI Act, 2004 dated 07.10.2022 and petition for grant of MSC on dated 17.02.2023. 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 22.07.2022 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 Infant Jesus English Medium School, Modankapu, Bantwala Taluk, Dakshina Kannada District, Karnataka-574219 run by The Catholic Board of Education of the Diocese of Mangalore 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, Infant Jesus English Medium School, Modankapu, Bantwala Taluk, Dakshina Kannada District, Karnataka-574219 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.
15. 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, 7<sup>th</sup> Day of March, 2024.**

**DR. SHAHID AKHTER  
MEMBER**

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