

GOVERNMENT OF INDIA

**NATIONAL COMMISSION FOR MINORITY
EDUCATIONAL INSTITUTIONS (NCMEI)**

Case No. 139 of 2023

In the matter of :-

**Kainat International School, Badaun Darwaza, Delhi-
Hasanpur Road, District Sambhal, Uttar Pradesh-244302**

..... Petitioner

V/s

**Additional Chief Secretary, Department of Secondary
Education, Govt. of Uttar Pradesh, Bahu Khandi, Secretariat,
Lucknow, Uttar Pradesh-226001**

..... Respondent

Present: Mr. Faiyyaz Ahmed Ansari for the petitioner
None for the respondent

ORDER

DATED 09.05.2024

Dr. Shahid Akhter, Member, NCMEI

1. This petition has been received on 17.05.2023 by hand through Mr. Khwaja Mohd. Rafi, Chairman of the Key Foundation for grant of Minority Status Certificate (in short 'MSC') to Kainat International School, Badaun Darwaza, Delhi-Hasanpur Road, District Sambhal, Uttar Pradesh-244302.
2. Mr. Khwaja Mohd. Rafi, Chairman of the Key Foundation filed an affidavit of Mr. Khwaja Mohd. Rafi, Chairman of the Key Foundation 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. Mr. Khwaja Mohd. Rafi, Chairman of the Key Foundation has filed notarized copy of Unique ID No. : DL/2017/0119096 of the petitioner's Trust as given by the Niti Aayog Portal NGO Darpan, photocopy of application dated 20.01.2023 sent to the State Competent Authority i.e. Additional Chief Secretary, Department of Secondary Education, Govt. of Uttar Pradesh alongwith postal receipt and its tracking report, notarized copy of Trust Deed dated 09.08.2007 of Key Foundation, notarized copy of Supplementary

Trust Deed dated 16.07.2018, Supplementary Trust Deed dated 03.01.2020, notarized copy of affiliation order dated 03.09.2021 issued by the Deputy Secretary / Joint Secretary (Aff), CBSE to the unaided petitioner institution from 01.04.2022 to 31.03.2027 for the Senior Secondary Level (1 to 12) and resolution of the General Body of the Trust in favour of Mr. Khwaja Mohd. Rafi, Chairman of the Key Foundation for obtaining MSC from this Commission.

4. As per the information supplied by the petitioner unaided institution with regard to students strength in Academic Year 2023-24, it is mentioned that out of total 843 students, all students are from the Muslim minority community. It is relevant to mention here that in academic year 2023-24, out of the total 45 teachers, 44 teachers are from Muslim Minority community.
5. It is stated in the petition that on dated 20.01.2023, the petitioner institution has applied to the State Competent Authority for grant of NOC which was received by the State Competent Authority on 27.01.2023 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 08.06.2023, 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 06.09.2023. After service of letters/emails to the physical inspection committee dated

26.09.2023 and 08.01.2024, Physical Inspection Committee, Sambhal District has sent physical inspection report dated 03.01.2024 which was received in the Commission's Office on dated 06.02.2024 wherein they have recommended to grant MSC to the petitioner institution.

7. Heard the petitioner, perused the pleading of the petition and the documents filed by the petitioner and affidavit of Mr. Khwaja Mohd. Rafi, Chairman of the Key Foundation.
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 Key Foundation 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 Mr. Khwaja Mohd. Rafi, Chairman of the Key Foundation.
10. I have perused the Trust Deed of the petitioner institution which was registered before the Sub Registrar, Delhi on dated 09.08.2007 which is before the filing of NOC applications U/s 10

of the NCMEI Act, 2004 dated 20.01.2023 and petition for grant of MSC on dated 17.05.2023. 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.

11. The Trust Deed dated 09.08.2007 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 Kainat International School, Badaun Darwaza, Delhi-Hasanpur Road, District Sambhal, Uttar Pradesh-244302 run by Key Foundation 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, Kainat International School, Badaun Darwaza, Delhi-Hasanpur Road, District Sambhal, Uttar Pradesh-244302 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 **Thursday, 9th Day of May, 2024.**

**DR. SHAHID AKHTER
MEMBER**

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