

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

Case No. 100 of 2023

In the matter of :-

**A.G. College of Nursing, Bandhdih, Jaridih, Jainmore,
Bokaro, Jharkhand-829301**

..... Petitioner

V/s

**1. Director, Primary & Secondary Education, Department of
School Education & Literacy Department, S.E. & L
Department, 3rd Floor, MDI Building, Behind Project
Bhawan, Post – Dhurwa, District Ranchi, Jharkhand-
834004**

**2. The Director, Technical Education, Department of Higher,
Technical Education and Skill Development, Govt. fo
Jharkhand, 3rd Floor, Yojna Bhawan, Nepal House,
Doranda Ranchi, Jharkhand-834002**

..... Respondents

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

ORDER

DATED 07.05.2024

Dr. Shahid Akhter, Member, NCMEI

1. This petition has been received on 13.03.2023 by hand through Mr. Junais P, Advocate of the petitioner institution for grant of Minority Status Certificate (in short 'MSC') to A.G. College of Nursing, Bandhdih, Jaridih, Jainmore, Bokaro, Jharkhand-829301.
2. Learned counsel for the petitioner filed an affidavit of Mr. Zaki Arfin, Secretary of Abdul Gafur Ansari Education Trust and the authorized representative of the applicant institution i.e. A.G. College of Nursing, Bandhdih, Jaridih, Jainmore, Bokaro, Jharkhand-829301 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 copy of Unique ID No. : JH/2020/0268039 of the petitioner's Trust as given by the Niti Aayog Portal NGO Darpan, photocopy of NOC application dated

19.09.2022 sent to the State Competent Authority i.e. Director, Primary Education Department of School Education & Literacy, SE & L Department alongwith postal receipt and its tracking report, notarized copy of the Trust Deed dated 13.12.2019 of Abdul Gafur Ansari Education Trust, notarized copy of the affiliation order dated 28.02.2023 issued by the Registrar, Jharkhand Nurses Registration Council to the unaided petitioner institution for the academic session 2023-24 for ANM, GNM and B.Sc(N) Courses and resolution of the General Body of the Trust in favour of Mr. Zaki Arfin, Secretary of Abdul Gafur Ansari Education Trust 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 2020-21, it is mentioned that out of total 60 students, 14 students were from the Muslim minority community, 2 students were from the Christian minority community and 44 students were Hindus, in Academic Year 2021-22, it is mentioned that out of total 167 students, 25 students were from the Muslim minority community, 18 students were from the Christian minority community and 124 students were Hindus and in Academic Year 2022-23, it is mentioned that out of total 132 students, 10 students are from the Muslim minority community, 30 students are from the Christian minority community and 92 students are Hindus. It is relevant to mention here that in Academic Year 2020-21, out of 19 teachers, 5 teachers were from the Muslim Minority community, in Academic Year 2021-22, out of 19 teachers, 4 teachers were from the Muslim Minority community and in Academic Year 2022-23, out of 34 teachers, 12 teachers are from the Muslim Minority community.
5. It is stated in the petition that on dated 19.09.2022, the petitioner institution has applied to the State Competent Authority for grant of NOC which was received by the State Competent Authority on 21.09.2022 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 dated 12.04.2023, 16.08.2023 and 28.11.2023, Assistant Director, Department of Higher and Technical Education on behalf of the respondent sent Counter Affidavit on dated 05.9.2023 which was received in the Commission's office on dated 11.09.2023, which was taken on record.
7. Learned Counsel for the petitioner filed subsequent pleadings and contended that the reply/counter affidavit filed by the respondent by misunderstanding and misconstruing the provisions of NCMEI Act only. As per the mandate of Hon'ble Commission, the petitioner institution approached the respondent Competent Authority on dated 19.09.2022 to grant NOC under Section 10 of the NCMEI Act, 2004 and to seek MSC from this Commission. The contention of the respondent in the counter affidavit is nothing to do with the present petition because the petitioner institution is a Nursing College and the same is governed by the Department of Health, Medical Education and Family Welfare, hence the controlling authority of the petitioner college is Department of Health, Medical Education and Family Welfare and prayed that the reply/counter affidavit filed by the respondent may be ignored as being devoid of merit and the same may kindly be disallowed and the minority status may be granted to the petitioner institution.
8. Heard Learned Counsel for the petitioner, perused the pleading of the parties, the documents filed by the petitioner and affidavit of Mr. Zaki Arfin, Secretary of Abdul Gafur Ansari Education Trust.
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 Abdul Gafur Ansari Education Trust 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. Zaki Arfin, Secretary of Abdul Gafur Ansari Education Trust.

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 Muslim minority community in the State of Jharkhand as per the census of 2011 is 14.53%.
11. I have perused the Trust Deed of the petitioner institution which was registered before the Registering Officer, Bokaro on dated 13.12.2019 which is before the filing of NOC applications U/s 10 of the NCMEI Act, 2004 dated 19.09.2022 and petition for grant of MSC on dated 13.03.2023. 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 Trust Deed dated 13.12.2019 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.

13. Relying on the said un rebutted evidence produced on behalf of the petitioner, we find and hold that A.G. College of Nursing, Bandhdih, Jaridih, Jainmore, Bokaro, Jharkhand-829301 run by Abdul Gafur Ansari Education Trust 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.
14. Consequently, A.G. College of Nursing, Bandhdih, Jaridih, Jainmore, Bokaro, Jharkhand-829301 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.
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 **Tuesday, 7th Day of May, 2024.**

**DR. SHAHID AKHTER
MEMBER**

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