

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

Case No. 13 of 2021

In the matter of :-

**St. Dominic's English High School, Hallikkere, Barandur P.O.,
Bhadravathi (T.K.), District Shimoga, Karnataka-577245**

..... Petitioner

V/s

**Additional Chief Secretary to Government, Education
Department (Higher Education), Govt. of Karnataka, Sixth
Floor, Multi Storeyed Building, Bengaluru**

..... Respondent

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

ORDER

DATED 23.04.2024

Dr. Shahid Akhter, Member, NCMEI

1. This petition has been received on 17.12.2020 by hand through Mr. Jose Abraham, Advocate of the petitioner institution for grant of Minority Status Certificate (in short 'MSC') to St. Dominic's English High School, Hallikkere, Barandur P.O., Bhadravathi (T.K.), District Shimoga, Karnataka-577245.
2. Learned counsel for the petitioner filed an affidavit of Sr. Philomina Vengachottil OP, President of Dominican Educational Society 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 notarized copy of Unique ID No. : KA/2017/0170229 of the petitioner's Society as given by the Niti Aayog Portal NGO Darpan, notarized copy of application dated 06.08.2019 sent to the State Competent Authority i.e. Additional Chief Secretary to Government, Education Department (Higher Education) for grant of No Objection Certificate (in short 'NOC') alongwith postal receipt and its tracking report, notarized copy of Certificate of Registration of

Dominican Educational Society in Kannad language alongwith its English translation, notarized copy of Memorandum of Association alongwith list of founding members of the Society, notarized copy of Amended Memorandum of Association dated 18.09.2017 alongwith list of present members of the Society, notarized English translation of Back side of last page of Amended Memorandum of Association dated 18.09.2017, notarized copy of the recognition order dated 12.03.2021 issued by the Deputy Director (Admn), Public Instruction Department to the unaided petitioner institution from the academic year 2020-21 to 2024-25 for Class 1st to 10th and resolution of the General Body of the Society in favour of Sr. Philomina Vengachottil OP, President of Dominican Educational Society for obtaining MSC from this Commission.

4. As per the information supplied by the unaided petitioner institution with regard to students strength as on 01.07.2020, it is mentioned that out of the total 579 students, 54 students are from the Christian minority community, 4 students are from Muslim minority community and 521 students are Hindus. It is relevant to mention here that as pm 01.07.2020, it is mentioned that out of the total 31 teachers, 14 teachers are from Christian Minority community.
5. It is stated in the petition that on dated 06.08.2019, the petitioner institution has applied to the State Competent Authority for grant of NOC which was received by the State Competent Authority on 07.08.2019 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 application 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 10.02.2021, no reply has been received from the respondents. 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 28.07.2022. After service of letter / email to the physical inspection committee dated 17.08.2022, Physical Inspection Committee, Shimoga has sent physical inspection report dated 01.09.2022 which was received in the Commission's Office on dated 14.09.2022 wherein they have not recommended to grant MSC to the petitioner institution as the number of students belonging to Christian religion is less than 25% of total enrolled students in the academic year 2020-21, 2021-22 and 2022-23.
7. Heard the Learned Counsel for the petitioner, perused the pleading of the petitioner, the documents filed by the petitioner and affidavit of Sr. Philomina Vengachottil OP, President of Dominican Educational Society. 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.
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 Christian minority community in the State of Karnataka as per the census of 2011 is 1.87%.

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 Christian minority community and is being administered by Dominican Educational Society 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 Sr. Philomina Vengachottil OP, President of Dominican Educational Society.
10. I have perused the Amended Memorandum of Association of the petitioner institution which was registered before the Registrar of Societies, Bangalore on dated 18.09.2017 which is before the filing of NOC applications U/s 10 of the NCMEI Act, 2004 dated 06.08.2019 and petition for grant of MSC on dated 17.12.2020. 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.
11. The Amended Memorandum of Association dated 18.09.2017 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.
12. Relying on the said unrebutted evidence produced on behalf of the petitioner, we find and hold that St. Dominic's English High School, Hallikkere, Barandur P.O., Bhadravathi (T.K.), District Shimoga, Karnataka-577245 run by Dominican Educational Society 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.

13. Consequently, St. Dominic's English High School, Hallikkere, Barandur P.O., Bhadravathi (T.K.), District Shimoga, Karnataka-577245 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.
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 **Tuesday, 23rd Day of April, 2024.**

**DR. SHAHID AKHTER
MEMBER**

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